

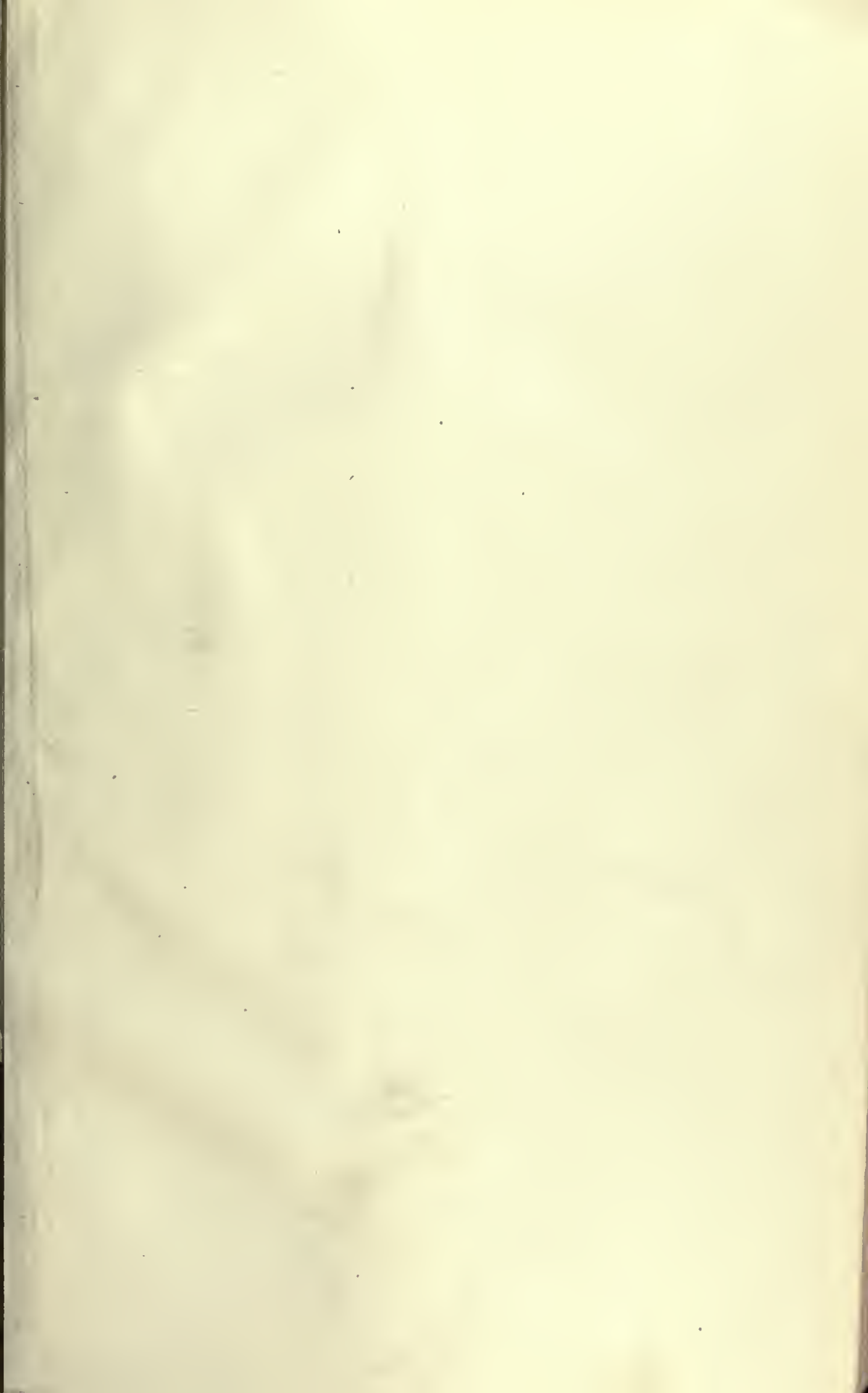
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HISTORY OF UTAH

COMPRISING

PRELIMINARY CHAPTERS ON THE PREVIOUS HISTORY OF HER FOUNDERS, ACCOUNTS OF EARLY SPANISH AND AMERICAN EXPLORATIONS IN THE ROCKY MOUNTAIN REGION, THE ADVENT OF THE MORMON PIONEERS, THE ESTABLISHMENT AND DISOLUTION OF THE PROVISIONAL GOVERNMENT OF THE STATE OF DESERET, AND THE SUBSEQUENT CREATION AND DEVELOPMENT OF THE TERRITORY.

IN FOUR VOLUMES.—VOL. II.

BY ORSON F. WHITNEY.

Illustrated.

"The address of history is less to the understanding than to the higher emotions. We learn in it to sympathize with what is great and good; we learn to hate what is base. In the anomalies of fortune we feel the mystery of our mortal existence; and in the companionship of the illustrious natures who have shaped the fortunes of the world, we escape from the littlenesses which cling to the round of common life, and our minds are tuned in a higher and nobler key."—FROUDE.

SALT LAKE CITY, UTAH:
GEORGE Q. CANNON & SONS CO., PUBLISHERS
APRIL, 1893.

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PREFACE.

LESS than a year ago the author finished writing the first volume of this history, and it was soon after presented to the public. The favor with which it was received by all classes warrants the belief that the second volume, which is now sent forth, will meet with like approval. All that is hoped or desired in the premises is that whatever of merit the work contains will be recognized, and that the minds of readers and critics will be unbiased, either by friendship or enmity.

Beginning with the advent into the Territory of the electric telegraph, which event, with the subsequent arrival of the railway, marked the dawn of a new era for the Rocky Mountain region, the book closes with what might be deemed the sunset of an era,—the death of Brigham Young, Utah's pioneer and founder. The railway and the telegraph remained, and the work begun in these parts under the influence of those powerful agents of civilization was not destined to pass away with the mortal part of the foremost figure in Mormonism. Yet so mighty was the impress made by that great man upon the age in which he lived, that his decease could not fail to point a period in the history of a community in which he towered pre-eminent, as a mountain towers above hills and plains. All the important local events occurring between the years 1862 and 1877 are treated in this volume. Respecting one of those events—the building of the railway—I may be pardoned for inserting here the following correspondence:

Bishop O. F. Whitney, Salt Lake City,

DEAR SIR:—I take pleasure in enclosing herewith a letter from our general passenger agent, in which he advises of the delivery to Mr. Thomas L. Kimball several sheets of the second volume of the History of Utah, wherein mention is made of the Union Pacific.

I am very glad to know that Mr. Kimball thinks so much of the work as far as it has come to his notice, for, as stated by Mr. Lomax, I do not know that there is a better living authority on the matter than Mr. Kimball.

Yours truly,

D. E. BURLEY, Gen. Agent.

SALT LAKE CITY, UTAH, July 15th, 1892.

Mr. D. E. Burley, G. A. U. P. System, Salt Lake City, Utah,

DEAR SIR :—I have received the two sheets of the History of Utah wherein the Union Pacific road is prominently mentioned. I submitted the same to Mr. Thomas L. Kimball, who is the best living authority on Union Pacific matters, and Mr. Kimball tells me he is greatly pleased with the history ; that it is about the best one he has ever read, covering all the points connected with the conception and completion of the road, and that the work has his cordial commendation. The facts and statistics, as far as Mr. Kimball's knowledge extends, are correctly stated.

E. L. LOMAX.

OMAHA, NEB., July 13th, 1892.

Apropos of the railway subject, the author takes pleasure in acknowledging the prompt courtesy touching matters of data and transportation, of the Union Pacific and Central Pacific companies, "which two did build" the great trans-continental highway. He was thereby enabled to prepare, with more facility and thoroughness than he could otherwise have done, the condensed narrative of the inception and construction of the Pacific Railway, commented on in the foregoing correspondence. From Mr. J. H. Bennett, General Passenger Agent of the Rio Grande Western, Messrs. McGregor and McIntosh, of the Utah Central, and Superintendent W. P. Read, of the Salt Lake City Railroad, similar courtesies have been received. The construction of these and other railway lines will form interesting themes in the future pages of this work.

The greater expedition manifested in the preparation of the present over the preceding volume, is partly due to the fact that the writer, being almost entirely free from the cares pertaining to the business branch of the enterprise—which was not so before—was enabled to concentrate time and energy upon the literary labor and push it forward more rapidly. The shortness of the period herein covered, as compared with the previous one, is also a cogent reason in this connection. Moreover, in order to expedite the work, and thus enable the publishers to keep their engagements with a host of subscribers, the author at their solicitation consented—at first reluctantly, but afterwards, in view of all the circumstances, willingly—to accept assistance during portions of the past twelve months from able pens employed for that purpose. The wielders of those pens were Messrs.

John Q. Cannon and James H. Anderson, the former now editor-in-chief of the *Deseret Evening News*, and the latter also connected with the staff of that journal. Such credit as of right belongs to those gentlemen the undersigned cheerfully accords. Much the greater portion of this volume, and all but part of a chapter in Volume One, were the product of his pen alone, and what was not written by him was prepared under his direction, by him edited and revised, changed wherever he deemed advisable, fitted into his plan and adopted as his own. So much in justice to himself and to his assistants.

As to aid of another character, I am indebted, as before, to President Wilford Woodruff and Council, for advice and encouragement, and to the Church Historian, Apostle Franklin D. Richards, his assistant, John Jaques, General Robert T. Burton and A. Milton Musser, Esq., for intelligent discussion and patient deliberation over the contents of the volume prior to its publication. For favorable notices of the former book, the author takes this opportunity of thanking the *Deseret News*, the *Salt Lake Herald*, the *Salt Lake Tribune*, the *Ogden Standard*, the *Territorial Enquirer*, and the press of Utah generally.

The third volume, which will be immediately begun, will take up the thread of local history where this book lays it down, and unless the record of the ensuing sixteen or seventeen years proves too voluminous for treatment in a single tome, will bring the general narrative up to what will then be termed the present time. Following that, another volume will contain histories of counties, institutions, professions, etc., with biographies of prominent citizens. Therein the author hopes, by entering more into details,—which cannot be done in a general record of men and events—to gratify the wishes of those who, passing hasty judgment upon half finished work, are apt to imagine themselves and their affairs slighted if full and foremost mention be not given them.

O. F. WHITNEY.

SALT LAKE CITY,
January, 1893.

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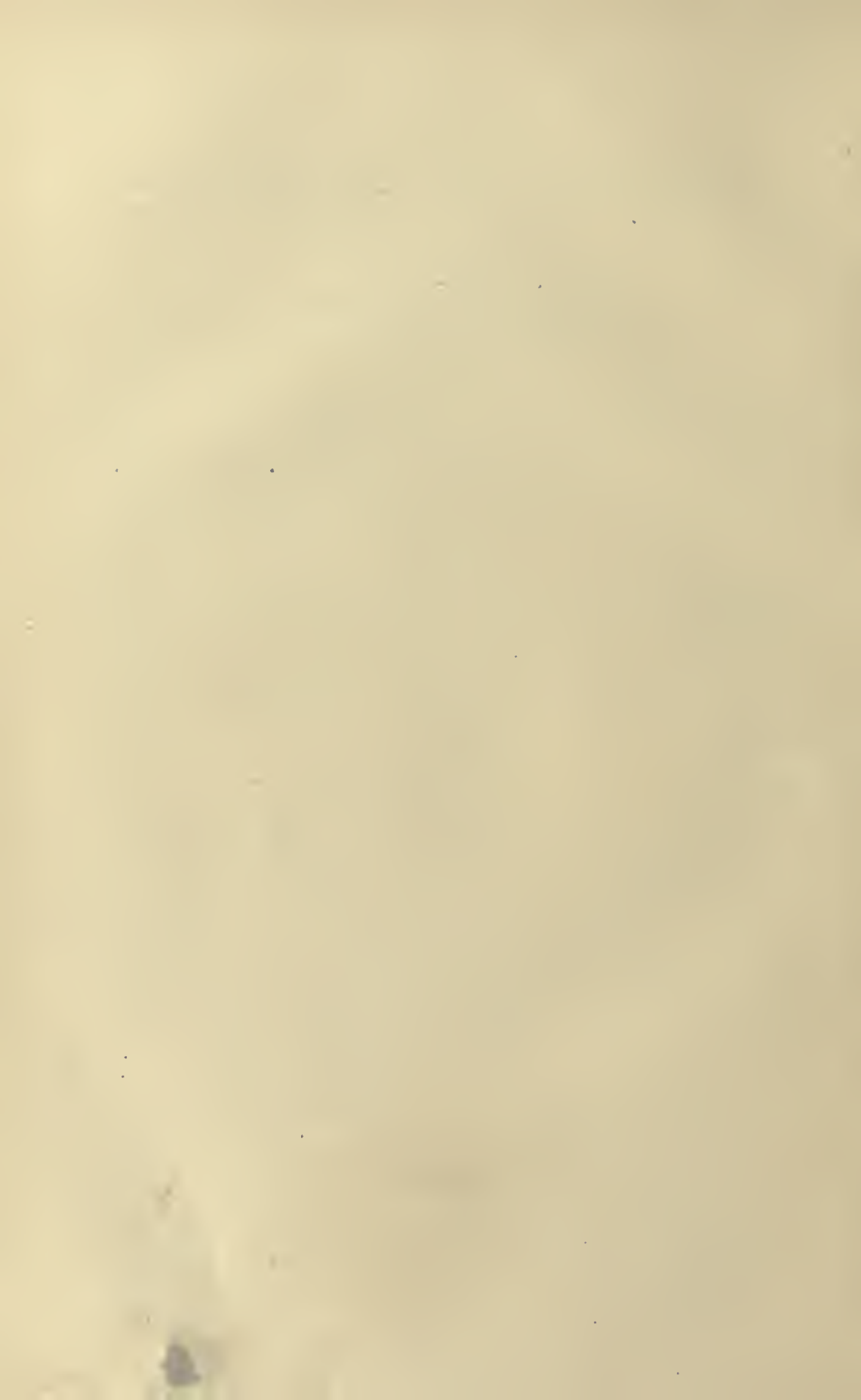
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Wm. J. Preston

HISTORY OF UTAH.

VOLUME TWO.

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UTAH'S NEW ERA—ANOTHER CHANGE OF BOUNDARY LINES—THE COUNTIES OF THE TERRITORY AFTER THE CREATION OF NEVADA—CACHE, BEAVER, WASHINGTON AND WASATCH COUNTIES AND THEIR FOUNDERS—UTAH'S FIRST COTTON CROP—PRESIDENT LINCOLN'S ATTITUDE TOWARD THE MORMONS—UTAH DURING THE CIVIL WAR—APOSTLE TAYLOR'S ORATION JULY 4TH, 1861—ADVENT OF THE TELEGRAPH—PRESIDENT YOUNG SENDS THE FIRST MESSAGE OVER THE WIRES—"UTAH HAS NOT SECEDED, BUT IS FIRM FOR THE CONSTITUTION AND LAWS"—PRESIDENT LINCOLN'S CONGRATULATIONS—OPENING OF THE SALT LAKE THEATER.

A NEW era now dawned upon Deseret. An era of electricity and steam; of rapid advance, of prolific and varied increase and development. An era of new ideas, the offspring of changed conditions; of notable achievements, the children of prosperity and progress. Utah's pioneer period was past. Solitude and isolation were no more. Her days of adolescence were well-nigh ended. The sun of an advanced civilization was about to shed its first rays over the Rockies, illumining the land of the honey-bee.

Perhaps the first event of which we will speak may not be deemed a progressive one. The purpose preceding it, and to which it owed its origin, was doubtless in the opposite direction, or was so considered in Utah at the time. Today, however, it would require a powerful lens indeed to magnify the result into an injury.

On the 2nd of March, 1861, two days before retiring from office, President James Buchanan affixed his signature to an act passed by

Congress taking from Utah the western portion of her domain, and out of it creating the Territory of Nevada. This further curtailment of the original boundaries of Deseret,—contemplated, though only in a general way, at the time our Territory was organized,*—was in deference to the wishes and demands of the Gentile population of western Utah, who were no longer willing to be subject to Mormon civil rule.

The section named had been occupied by Mormons and non-Mormons since early in the “fifties.” In the summer of the first year of that decade Hampden S. Beatie, of Salt Lake City, who had arrived here from the east only the season before, became one of a party organized for the purpose of proceeding to the California gold mines. Mr. Beatie at this time was a non-Mormon, but had married a Mormon girl and come west with her people to Salt Lake Valley, where he soon afterwards joined the Church. Leaving his wife in the Valley, he started with others, as stated, for California. The Captain of the party was a Mr. DeMont, and Mr. Beatie was its Secretary. Their company consisted of about eighty persons. Arriving in Carson Valley, Mr. Beatie, liking the locality, decided to forego his first intention and remain there. His idea was now to establish a trading post and do business with the emigrants and gold hunters who continually passed that way. A few others of his party concluded to share his lot; among them Mr. DeMont, Abner Blackburn and brother, and Messrs. Kimball and Carter. Abner Blackburn prospected for gold, which he discovered in small quantities in Gold Canyon. Mr. Beatie settled on the site of the present town of Genoa, where he claims to have built the first house in Carson Valley. Excepting the Donner party cabins of 1846, this was probably the first house erected in what is now the State of Nevada. Mr. Beatie returned to Salt Lake Valley the same season, after selling out to a man named Moore, one of various settlers from both east and west who now began to build and inhabit along the

* See Section 1, Organic Act, Chapter XXIII, Volume I, of this History.

Carson. Some of these were farmers and herdsmen who stopped on their way to California, or after reaching the land of gold, recrossed the Sierras and settled. Others were merchants, who began early to do a thriving business with the emigrants and gold-hunters *en route* to the coast. Among the pioneer merchants of Carson Valley were John and Enoch Reese, of Salt Lake City, the former of whom is reputed to have built, in 1851, the first house at Genoa, then called Reese's or Mormon Station. Mr. Beatie, however, as seen, claimed to have built a house there in 1850, which house, some suppose, afterwards passed into the possession of the Reeses. Enoch Reese was a prominent Mormon, and one of the earliest members of the municipal council of Salt Lake City. After the creation of Carson County in 1854, when Hon. Orson Hyde was appointed its probate judge, Enoch Reese was chosen to represent it in the Utah Legislature. The Mormons were then in the majority and of course controlled all the local offices.

For some time the two parties—Mormon and non-Mormon—dwelt amicably together, but with the discovery of gold east of the Sierras and the consequent rapid influx of miners, many of whom were of the reckless and turbulent class commonly found in new countries, troubles and feuds began. Anti-Mormon prejudice soon asserted itself and much dissatisfaction was felt and expressed by the Gentiles at being “ruled from Salt Lake City.” Owing to this and certain misunderstandings as to the boundary line between Utah and California, efforts were repeatedly made, before the idea of a separate Territory had formed, to annex the Carson region to the Golden State. To this arrangement California was quite agreeable. Congress, however, was unwilling to make the change and this phase of the proposed curtailment was finally dropped. It was these early efforts to abridge the Territory that caused the settlements in and near Carson Valley to be strengthened by immigration from eastern and northern Utah in 1856.* At that time the Mormons were still in the

* The Saints also founded settlements in Eagle, Washoe, Jack and Pleasant valleys.

majority and remained so until the year following. In 1857-8, the Saints broke up their settlements, as noted in the previous volume, most of them returning to the shores of the Great Salt Lake. This left the Gentiles in Carson County in the majority.

It was just at this time that they began taking steps toward the formation of an independent commonwealth. In August, 1857, shortly before the final exodus of the Saints from Carson County, the non-Mormons at Genoa met and passed resolutions declaring it to be the sense of the inhabitants of that region "that the security of life and property of immigrants passing through it depended upon the organization of a Territorial government." The memorial accompanying the resolutions stated that no law existed in western Utah except theocratic rule, and that the Utah Legislature had abolished the courts of Carson County, leaving no officers to execute the laws except two justices of the peace and one constable, whose authority no one respected. It also stated that the county was reduced to an election precinct in which no one voted or cared to vote; that there were bad men in the community whose crimes could only be punished by resort to lynch law; that the country was cut off from California four months of the year by snow, and equally from the capital of the Territory by distance, and that the region had a white population of from seven to eight thousand souls, with 75,000 to 100,000 natives. This last claim was a gross exaggeration, as were doubtless some of the others. However, the new movement was very popular among the Gentiles, and like a snowball from the summit of the Sierras increased in size and swiftness as it sped. Other meetings were held, and in January, 1858, the Governor and Legislature of California endorsed the project. James M. Crane was sent to Washington as a delegate from the inchoate Territory to work for its organization and to represent it in Congress when it should be created. Writing from the capital to his constituents, in February of that year, he stated that the Committee on Territories had agreed to report a bill and that it would be pressed through both houses as a war measure, to "compress the limits of the Mormons and defeat

their efforts to corrupt and confederate with the Indian tribes." At this time the excitement in Washington over the "Utah war" was at its height. Peace being restored, the organization of "Sierra Nevada Territory" was postponed. In January, 1859, the Utah Legislature reorganized Carson County, attaching to it St. Mary's and Humboldt counties, and fixing the county seat at Genoa. The same act reorganized Green River County, with its seat of government at Fort Bridger. June of that year witnessed the discovery, in western Utah, of the great Comstock lode, conceded to be the richest mine of modern times.

During the same summer Judge Cradlebaugh held court in Carson County, but was opposed by the Gentiles, and his situation rendered very disagreeable; for no other reason, it appears—since he himself was an ardent anti-Mormon—than that he represented the Utah judiciary. In November, 1860, another effort was made to "throw off the Mormon yoke" and secure an independent Territorial government. This time the citizens of Carson County went so far as to elect a Governor and Legislature, and memorialize Congress in that capacity; an act which if done by the unpopular Mormons would probably have been denounced as treason. This is not saying that the act was not perfectly legitimate. Another year's delay ensued, during which all sorts of rumors prevailed as to what Congress intended doing in the matter; one report being, as already related, that it was the design to wipe Utah out of existence by changing its name to Nevada and removing the seat of government from Salt Lake City to Carson Valley. At length, on March 2nd, 1861, the bill became law organizing out of western Utah the Territory of Nevada. Its eastern limit was placed at the 39th meridian from Washington. Subsequently—in 1862—another degree was added on the east, and in 1866 still another. Utah began to think that Nevada "wanted the earth." The first Governor of the new Territory was James W. Nye; the first delegate to Congress, John Cradlebaugh, formerly Associate Justice of Utah, who early identified himself with the fortunes of the newly fledged common-

wealth. Thus, like Eve from the side of Adam, was taken from Utah the "rib" composing the greater part of the present State of Nevada.*

During the winter of 1861-2 the Utah Legislature defined anew the boundaries of the Territory and its several counties. These then numbered seventeen, and were named as follows: Great Salt Lake, Davis, Weber, Box Elder, Cache, Utah, Tooele, Juab, Sanpete, Millard, Iron, Beaver, Washington, Morgan, Wasatch, Summit and Green River. How most of them came into existence has already been briefly told, and will be related more fully hereafter. Of the others, whose histories in detail are also yet to be given, a word here in passing.

Cache County had been pioneered in July and September, 1856, by Peter Maughan and a small company from Tooele Valley. They built Maughan's Fort, where Wellsville now stands, and in April following organized the county, which had already been created by the Legislature. Peter Maughan became the first probate judge of Cache County. Associated with him in his pioneering labors were his sons William H. and John, and such men as George Bryan, John Tate, Zial Riggs, Morgan Morgan, Francis Gunnell, O. D. Thompson, William Gardner, Abel, John T., and William Garr. At the time of "the move" in 1858, Cache Valley was vacated, but the ensuing spring found Judge Maughan back at his home in the north, where he with others next located the site of Logan. In August of that year William B. Preston and the Thatcher brothers, John B. and Aaron D., joined the colony on Logan River, and later, Father Hezekiah Thatcher and the remainder of his family, including his sons George W. and Moses, moved into the valley which they and their kindred have since done so much to develop and adorn. William B. Preston, the first bishop of Logan, the present Presiding Bishop of the Mormon Church, and his brother-in-law, Apostle

* This same year the Territory of Colorado was organized out of portions of Utah, New Mexico, Kansas and Nebraska. By this act the eastern boundary of Utah was placed at the 32nd meridian. Nevada became a State in 1864. She claimed in 1870 a population of 42,491.



Eng by E. Williams & Bro. NY

Abram Hatch

1854

Moses Thatcher, have long been among Utah's foremost men, and are of that class of spirits who invariably "make their mark" in any community. The same may be said of the veteran Peter Maughan, who was the first bishop of the Cache Valley colony, and its earliest representative in the Legislature.

Beaver County was settled in April, 1856, by Simeon Howd and others, who came northward from Parowan for that purpose. They built the first log cabin on Beaver River, and began to till the soil along its banks. Soon they were followed by others. In the spring of 1858 a site for a city was selected and the town of Beaver laid out; so named, with the river upon which it rests, from the beaver dams found along the stream. Minersville, the second settlement in importance, sprang up in 1859. Beaver Valley, in spite of its plentiful water supply, as first viewed was barren and forbidding. The surface was covered with sagebrush and much of the soil so impregnated with alkali as to be considered unfit for cultivation. The energy and industry of its inhabitants have since made it a choice and pleasant place of abode.

The pioneer settler of Washington County was John D. Lee, subsequently of Mountain Meadows notoriety, who, as early as 1852, located a ranch on Ash Creek, where arose Fort Harmony. This settlement was twenty miles north of the Rio Virgen. It became the county seat and continued so until 1859, when the town of Washington, founded in 1857, took its place. In the latter part of 1861, colonies aggregating several hundred families, from Salt Lake, Davis, Weber, Tooele, Utah, Sanpete, Juab, Millard and Beaver Counties, went south for the purpose of strengthening Washington County and raising cotton in that region. George A. Smith, Erastus Snow and Horace S. Eldredge headed this colonizing movement, which was directed, as usual, by President Young. The city of St. George and the towns on the upper Rio Virgen were located by these companies, and the resources of the country were rapidly developed. St. George, the leading town of that section—the metropolis of the Mormon "Dixie"—was named after George A. Smith, the father of the

southern Utah settlements. A year later reinforcements were sent from northern Utah, and the first cotton crop of the Territory—about one hundred thousand pounds—was gathered. Joseph Horne, now of Salt Lake City, had charge of the cotton-raising colony.

Wasatch County was pioneered in the summer or fall of 1858. Its first settlers were from Provo and Nephi, and included such names as William M. Wall, William Meeks, Aaron Daniels and the Cummings brothers. Ranches were located at that time, but the soil was not tilled until the following spring. The first to break ground in "Provo Valley" for agricultural purposes were James Davis, William Davidson and Robert Broadhead, of Nephi. They were speedily followed by Thomas Rusband, John Crook, Jesse Bond, John Jordan, James and John Carlyle, Henry Chatwin, Charles M. Carroll and William Giles, from Provo. In the spring of 1860 other Utah County families came into the valley. William M. Wall became the first president of the colony, with James Laird and John M. Murdock as his counselors. He was succeeded by Joseph S. Murdock, who subsequently became the first representative from Wasatch County to the Legislature. Nymphus Murdock was also an early settler of that section. Abram Hatch, the foremost man in the county today, was not among its pioneers, but since his advent has undoubtedly done as much as any man to make it the thrifty and prosperous portion of the Territory that it now is. Mr. Hatch's record as representative to the Legislature and in various other prominent positions will come later.

Resuming now the thread of the general history. On the 4th of March, 1861, Abraham Lincoln took the oath of office as President of the United States. He was regarded as a friend by the people of Utah, and they much esteemed him. When asked as to the policy he proposed pursuing in relation to the Saints, he replied: "I propose to let them alone," illustrating his idea by comparing the Mormon question to a knotty, green hemlock log on a newly cleared frontier farm. The log being too heavy to remove, too knotty to split, and



Genl. Crook in 1862

John Crook

Eng. by E. C. Williams & Co. N.Y.

too wet to burn, he proposed, like a wise farmer, to "plow around it."

President Lincoln's appointments for Utah included the following named officials: Governor, John W. Dawson; Secretary, Frank Fuller; Superintendent of Indian Affairs, James Duane Doty; Surveyor-General, S. R. Fox. John F. Kinney, previously reappointed by President Buchanan, was continued in office as Chief Justice, and R. P. Flenniken and H. R. Crosby were the Associate Justices.

Governor Dawson received his appointment on the 3rd of October, and early in December arrived at Salt Lake City. He was accompanied by the Superintendent of Indian Affairs, Mr. Doty. Secretary Fuller had preceded them, and for a few weeks had been acting as Governor. Governor Cumming and wife had left for the States in May, and for a brief period thereafter Secretary Francis H. Wootton had officiated in his stead. Soon after the beginning of the Civil War Mr. Wootton resigned and was succeeded by Secretary Fuller. Mr. Doty's predecessor as Indian Superintendent was Henry Martin.

It is worthy of note that during this eventful year, 1861, which witnessed the out-break of the great rebellion,—the putting forth of a gigantic effort to destroy the Union,—the people of Utah manifested their loyalty by a grand and enthusiastic celebration of the 4th of July, the birth-day of that nation whose life-blood, shed by her own offspring and destined to flow in crimson torrents ere her deadly wound was healed, now reddened the streets of Baltimore and the green slopes of Virginia. Such a celebration was all the more significant from the fact that Utah at this time was suspected and even accused of favoring the cause of Secession, and of cherishing the design to separate from the parent government and erect herself into an independent nation. How unjust these suspicions and accusations were will be evident to the reader as we proceed.

The celebration referred to was general throughout the

Territory, but the most important phase of it was witnessed at Salt Lake City. The Committee of Arrangements were: Bishop Edward Hunter, Hon. Elias Smith, Hon. A. O. Smoot, Colonel Jesse C. Little, Captain Leonard W. Hardy, Hon. Jeter Clinton, Colonel Robert T. Burton, Hon. Alonzo H. Raleigh and Hon. Elijah F. Sheets. The pageant preceding the ceremonies at the Bowery* on Temple Block, was a superb affair, representing not only the patriotism of the people, but their progress and status in the mechanical arts and industrial pursuits. It moved through the principal streets of the city under the direction of Major John Sharp, Marshal of the day, assisted by Majors Theodore McKean, Robert J. Golding, Brigham Young, Jr., and Captain Stephen Taylor. President Brigham Young and family viewed the procession from the balcony of the Bee-Hive House, over which floated the nation's standard. It is due to that interesting day and occasion to briefly note some of the prominent features of the pageant and the celebration. They were as follows:

1. A company of Pioneers under Captain Seth Taft, aided by George Woodward and William Carter, carrying a banner inscribed with the names of the Pioneers of 1847.

2. Martial Band, under Major Dimick B. Huntington.

3. Company of Light Infantry led by Captain George Romney, with banners—one the stars and stripes, the other bearing the legend, "God and our Right, Liberty or Death."

4. President and Directors of the Deseret Agricultural and Manufacturing Society, and a body of agriculturists, with banners, and wagons loaded with fruits of the earth and various farming implements. Reuben Miller was in charge of this display, with Jacob Weiler and John Scott as his assistants.

5. Stock-raisers, under Bryant Stringam.

6. Horticulturists, under E. Sayers.

7. Chemists, under Alexander C. Pyper.

8. Millwrights, under Frederick Kesler.

* This Bowery occupied a portion of the site of the present Tabernacle.

9. Bridge-builders, under Henry Grow.

10. Representatives of the Deseret Foundry, under the direction of Zacharias W. Derrick.

Then came other crafts and trades headed as follows: Sons of Vulcan, Jonathan Pugmire; edge tool makers, Robert Daft; gun and locksmiths, James Hague; tin and copper smiths, Dustin Amy; carpenters and joiners, Miles Romney; wheelwrights, Samuel Bringhurst; cabinet makers, carvers, turners and upholsterers, William Bell; coopers, Abel Lamb; stone cutters, Charles Lambert; masons, plasterers, brick and adobe makers, John H. Rumel; painters and glaziers, Edward Martin; tanners and curriers, James Robson; boot and shoemakers, Edward Snelgrove; saddle and harness makers, Francis Platt; wool carders, Theodore Curtis; weavers, Thomas Lyon; dyers, J. Evans; tailors, Claude Clive; hatters, Lyman Leonard; potters, John Eardley; millers, John Neff; bakers and confectioners, William L. Binder; butchers, Charles Taylor; rope-makers, William A. McMaster; comb-makers, William Derr; match-makers, Alexander Neibaur; basket-makers, Daniel Camomile; broom-makers, Moses Wade; tobacco manufacturers, Benjamin Hampton; artists William V. Morris; engravers, David McKenzie; jewelers, Charles Kidgell; silversmiths, John Rogers; watch and clock makers, Octave Ursenbach; hair-dressers, John Squires; quarrymen, Adam Sharp; lumber men and sawyers, Edmund Ellsworth.

Following these displays came Ballo's Band, led by Lieutenant Worthen, and a corps of civil engineers under General Jesse W. Fox. After came the paper-makers under T. Howard, and vehicles containing the Typographical Association, with press and fixtures, under the direction of Henry McEwan. In the second wagon the pressmen were striking off patriotic songs and distributing them among the people as they passed. In another vehicle were the book-binders and paper-rulers under John B. Kelley.

Next went the Committee of Arrangements and orators of the day, Territorial, County and City officers, the chancellor and regents

of the University of Deseret, teachers and pupils of the select and district schools, etc. A car with national emblems, representing the army and navy, formed a very attractive feature of the procession. Near the foot of the pageant marched a company of Indian children, neatly attired, under the direction of John Alger, with a banner on which was inscribed the paraphrased Book of Mormon prediction: "We shall become a white and a delightsome people." The martial band of Captain George W. Brimhall preceded the concourse of citizens which closed the procession.

The ceremonies at the Bowery consisted of music,—“Star Spangled Banner,” by the Nauvoo brass band; prayer by the Chaplain, David Pettigrew; music, “Hail Columbia,” by Ballo’s band; reading of the Declaration of Independence by John R. Clawson Esq.; music, “Yankee Doodle,” by Major Huntington’s martial band; an oration by Hon. John Taylor; artillery salute; a patriotic song composed for the occasion by Eliza R. Snow and sung by William Willes; an oration by John V. Long, Esq., and an address by Hon. George A. Smith, followed by music, toasts, sentiments, etc.

As a reflex of the feeling throughout Utah at this time we here present an excerpt from the oration of Hon. John Taylor. After dwelling upon the past history of the nation and the various experiences of the Latter-day Saints, the speaker came to the subject of the Civil War, and said:

The fiercest passions of human nature have been aroused; the gauntlet is thrown down; the rubicon is passed; the clarion of war is sounded and fratricidal war is already inaugurated. * * * It is not against a stranger that our nation fights, no enemy has invaded our borders; it is state against state, brother against brother, father against son, and officers who have heretofore fought side by side in behalf of their country now meet each other in deadly contest. Citizens of the same village and city and state, now burn with deadly anger against each other, and thirst for each other’s blood. Distrust, jealousy, deception and fraud take the place of confidence, kindness, brotherhood and philanthropy, and like a deadly moloch crush out of neighborhoods, villages, cities, states and the nation everything that is good, generous, kind, noble and elevating. While the grim fiend of war mocks at the miseries of humanity now commenced, and already rejoices at the prospect of glutting himself with human blood; talk of a day of jubilee and rejoicing! Our flags do flutter and our standards are raised,

but it is to gather the people to battle. Our drums beat and our men assemble, but the cry is "To arms! to arms!" Our cannon indeed roar, but it is to slay men, and while I speak and you hear from four to five hundred thousand brothers are gathering together preparatory to the deadly fray.

* * * * *

It may now be proper to inquire what part shall we take in the present difficulties? We do not wish to dodge any of these questions. We have ever taken a manly, straightforward path, and always expect to do so. In regard to the present strife, it is a warfare among brothers. We have neither inaugurated it nor assisted in its inauguration; both parties, as already shown, have violated their Constitutional obligations. No parties in the United States have suffered more frequently and more grievously than we have the violation of our national compact. We have frequently been mobbed, pillaged and plundered, without redress. We have been hunted like the deer on the mountains, our men have been whipped, banished, imprisoned and put to death without a reason. We have been driven from city to city, from state to state, for no just cause of complaint. We have been banished from the pale of what is termed civilization, and forced to make a home in the desert wastes.

Not content with this, we have been pursued by the legions of the United States in our desert home. Those who should have been our fathers and protectors, have thirsted for our blood and made an unconstitutional use of the power vested in their hands to exterminate us from the earth. Still we are loyal, unwavering, unflinching in our integrity; we have not swerved nor faltered in the path of duty.

Shall we join the North to fight against the South? No! Shall we join the South against the North? As emphatically, no! Why? They have both, as before shown, brought it upon themselves, and we have had no hand in the matter. Whigs, Democrats, Americans* and Republicans have all in turn endeavored to stain their hands in innocent blood, and whatever others may do, we cannot conscientiously help to tear down the fabric we are sworn to uphold. We know no North, no South, no East, no West; we abide strictly and positively by the Constitution, and cannot by the intrigues or sophisms of either party, be cajoled into any other attitude.

* * * * *

We do not wish to parade our loyalty nor render fulsome adulation to men, or empty institutions, but the Constitution of the United States has ever been respected and honored by us. We consider it one of the best national instruments ever formed. Nay, further, Joseph Smith in his day said it was given by inspiration of God.

We have ever stood by it and we expect when the fanaticism of false blatant friends shall have torn it shred from shred, to stand by the shattered ruins and uphold the broken, desecrated remnants of our country's institutions in all their primitive purity and pristine glory. Our motto has always been, and ever will be, freedom to the Jew, Moslem, Greek, and Christian. Our banner floats for all and we would not only proclaim liberty throughout the land, but freedom to the world.

* The Know-nothing party.

On the 17th of October of this year was completed to Salt Lake City the Pacific or Overland Telegraph Line, which for several months had been approaching from both east and west the Territorial capital. Arrangements to push the line through from California had been made in March and April, by Messrs. Wade and Creighton, the former president and the latter superintendent of the Pacific Telegraph Company.* The first pole was put up at Fort Churchill, Nevada, on the 20th of June, and early in July James Street, Esq., planted the first poles in Utah on East Temple Street, Salt Lake City. This was not the completion of the line between those points, but merely the erection of the terminals. In June Messrs. Little and Decker of this city were busily engaged laying the poles on the eastern route and in July they secured the contract to furnish poles for the western division, as far as Ruby Valley, Nevada. The work was energetically prosecuted, and on the 17th of October the local operator connected with the eastern route announced that the line was complete.

No word, however, went over the wires until next day, when the first use of the telegraph was courteously tendered to President Brigham Young. He accepted and forwarded to President Wade this dispatch:

GREAT SALT LAKE CITY,
October 18th, 1861.

Hon. J. H. Wade, President of the Pacific Telegraph Company, Cleveland, Ohio,

SIR:—Permit me to congratulate you on the completion of the Overland Telegraph line west to this city, to commend the energy displayed by yourself and associates in the rapid and successful prosecution of a work so beneficial, and to express the wish that its use may ever tend to promote the true interests of the dwellers upon both the Atlantic and Pacific slopes of our continent.

UTAH HAS NOT SECEDED, but is firm for the Constitution and laws of our once happy country, and is warmly interested in such useful enterprises as the one so far completed.

BRIGHAM YOUNG.

Sunday morning, October 20th, the following reply was received:

* Edward Creighton, of Omaha, to whom Congress had granted the charter for the Pacific Telegraph, was the chief projector and builder of this line.

CLEVELAND, Oct. 19, 1861.

Hon. Brigham Young, President, Great Salt Lake City,

SIR:—I have the honor to acknowledge the receipt of your message of last evening, which was in every way gratifying, not only in the announcement of the completion of the Pacific Telegraph to your enterprising and prosperous city, but that yours, the first message to pass over the line, should express so unmistakeably the patriotism and Union-loving sentiments of yourself and people.

I join with you in the hope that this enterprise may tend to promote the welfare and happiness of all concerned, and that the annihilation of time in our means of communication may also tend to annihilate prejudice, cultivate brotherly love, facilitate commerce and strengthen the bonds of our once and again to be happy Union.

With just consideration for your high position and due respect for you personally,

I remain your obedient servant,

J. H. WADE, President Pacific Telegraph Co.

On the same day that the first message was sent, acting-Governor Fuller made use of the wire to salute President Lincoln. The nation's chief answered, expressing sentiments reciprocal to the congratulations conveyed. Here are copies of both telegrams :

GREAT SALT LAKE CITY,

October 18th, 1861.

To the President of the United States :

Utah, whose citizens strenuously resist all imputations of disloyalty, congratulates the President upon the completion of an enterprise which spans a continent, unites two oceans, and connects with nerve of iron the remote extremities of the body politic with the great governmental heart. May the whole system speedily thrill with the quickened pulsations of that heart, as the parricide hand is palsied, treason is punished, and the entire sisterhood of states joins hands in glad reunion around the national fireside.

FRANK FULLER, Acting Governor of Utah Territory.

WASHINGTON, D. C., October 20th, 1861.

Hon. Frank Fuller, Acting Governor of Utah Territory,

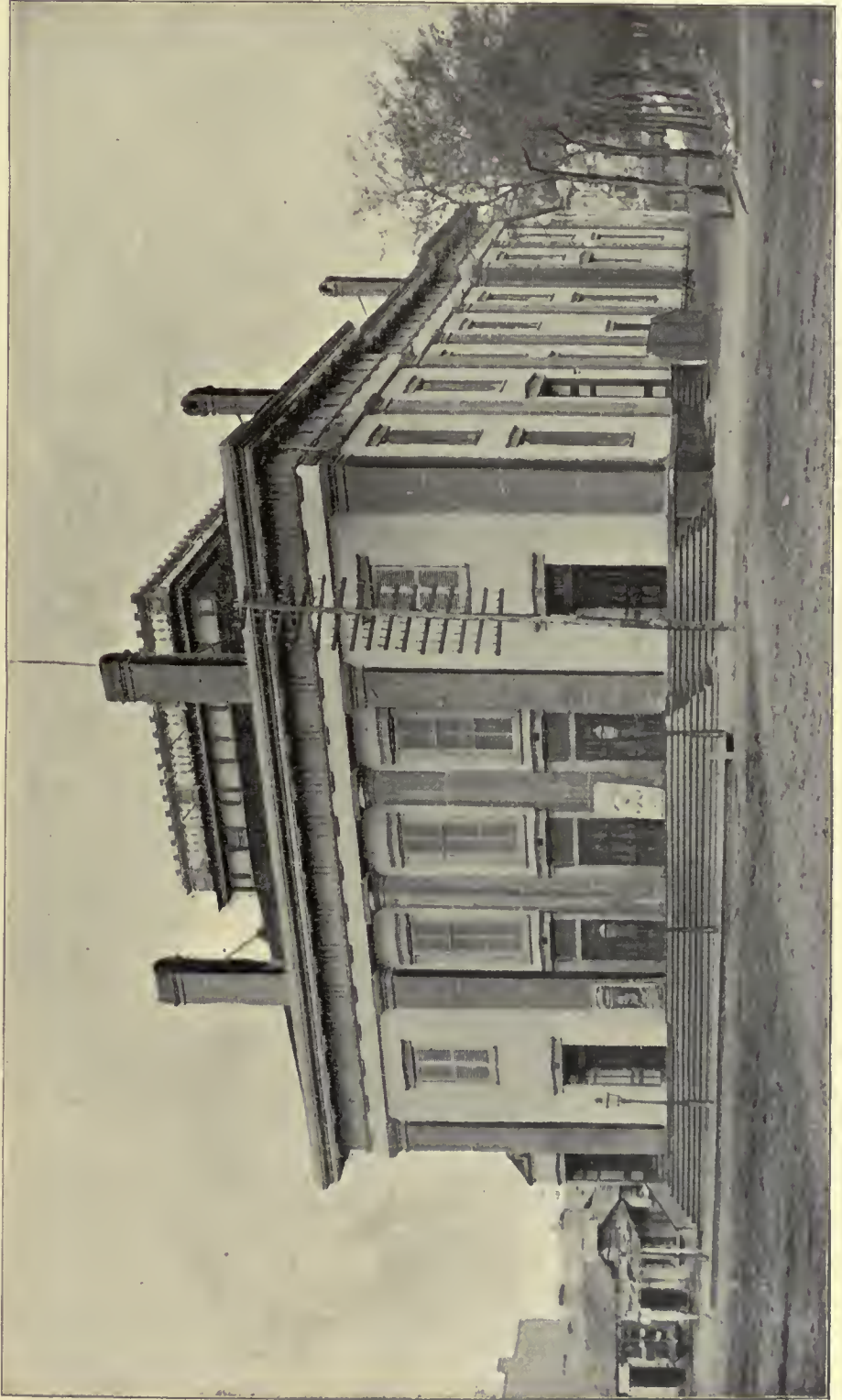
SIR:—The completion of the telegraph to Great Salt Lake City is auspicious of the stability and union of the republic. The Government reciprocates your congratulations.

ABRAHAM LINCOLN.

All day long on the 18th the wires were kept busy conveying messages of friendly greeting and congratulation to and from Salt Lake City and distant eastern points. A few days later the western line was completed, and on the 24th of October President Young sent the first telegram from Salt Lake City to San Francisco.

The advent of the telegraph, which placed Utah in daily communication with the Atlantic and Pacific States and the British North American provinces, was, it is needless to say, an event of prime importance. It may properly be regarded as the dawn of a new era on our Territory. Said the *Deseret News*, expressing the universal sentiment regarding the auspicious occurrence: "The overland telegraph line * * is one of the greatest and grandest institutions of recent construction." "We cannot but be satisfied with the establishment of the telegraph enterprise through the Territory. Facility of communication is the natural desire of all intelligent beings, and in an age of progress and development like the present the electric highway becomes a necessity." "The hope is entertained that at no distant day the 'iron horse' may have a track prepared for it across the continent."

Following close upon the heels of this important event came another scarcely less notable in a local view. It was the completion and opening of the Salt Lake Theater,—at the time of its erection and even now, one of the finest dramatic temples in America. Ground had been broken for the foundations on the 1st of July, 1861, and about two hundred men had been employed upon it more or less regularly from that time until the spring following, when the building was completed. The architect and superintendent of construction was William H. Folsom, but it was well understood that President Brigham Young, the projector and proprietor, had also brought to bear his rare architectural genius upon the designs. The ground plan of the structure was eighty by a hundred and forty-four feet, with walls forty feet high to the square. From the ground to the top of the decking was sixty-five feet, and to the summit of the dome twenty-five feet more. The rock work, three feet thick, rose twenty feet above the ground, from which point the walls were of adobe, two and a half feet thick. The roof was self-supporting. The interior was handsomely fitted up,—gorgeously for those times,—the auditorium being divided into parquet and family circle, and first, second and third circles, with the usual orchestral space between



Salt Lake Theater.

parquet and stage. The opening at the drop curtain measured thirty by thirty-one feet, and the stage had a full depth of sixty-two feet. The total cost of the building, which still stands on the corner of State and First South Streets, was over a hundred thousand dollars.

The Theater was dedicated on the evening of Thursday, March 6th, 1862. The house was packed with an eager throng, admitted on special invitation to witness the ceremonies. On the stage, in front of the curtain, reserved seats were placed for the First Presidency and a few others, while the auditorium was occupied by the High Council and other ecclesiastical dignitaries; city, county and Territorial officials, the *corps dramatique*, the workmen upon the building, the public hands, and their families. Many who, though invited, were unable to gain admittance, owing to the crowd, reserved their tickets for the first regular night of the season—Saturday, March 8th. The ceremonies of dedication consisted of a few opening remarks by President Young; singing by the choristers, “Lo! on mountain tops appearing;” the dedicatory prayer by President Daniel H. Wells;* singing, “Star Spangled Banner,” by William C. Dunbar; addresses by Presidents Brigham Young, Heber C. Kimball and Apostle John Taylor; an anthem—words by Eliza R. Snow, music by Charles J. Thomas—rendered by the choir and orchestra; and another song by Dunbar composed for the occasion by Apostle Taylor. The Theater Orchestra, under the baton of Professor C. J. Thomas, during the evening rendered several popular selections.

Before another immense audience, on the evening of the 8th, the Theater was opened to the public. The pieces presented on that occasion were “The Pride of the Market” and “State Secrets,” between which a comic song—“Bobbing Round”—was rendered by the inimitable Dunbar. Here are the casts of the plays:

* Daniel H. Wells had succeeded Jedediah M. Grant as Second Counselor to President Young on the 4th of January, 1857.

PRIDE OF THE MARKET.

| | | | | | | |
|-------------------------|---|---|---|---|---|----------------------------|
| Marquis De Volange | - | - | - | - | - | Mr. John T. Caine |
| Baron Troptard | - | - | - | - | - | Mr. Henry Maiben |
| Chevalier De Bellerive | - | - | - | - | - | Mr. J. M. Simmons |
| Ravannes | - | - | - | - | - | Mr. R. H. Parker |
| Dubois | - | - | - | - | - | Mr. D. McKenzie |
| Isidore Farine | - | - | - | - | - | Mr. H. B. Clawson |
| Preval | - | - | - | - | - | Mr. S. D. Serrine |
| Servants | - | - | - | - | - | Messrs. Matthews and Snell |
| Waiter | - | - | - | - | - | Mr. J. B. Kelly |
| Mademoiselle De Volange | - | - | - | - | - | Mrs. Woodmansee |
| Marton | - | - | - | - | - | Mrs. M. G. Clawson |
| Gavotte | - | - | - | - | - | Mrs. Cooke |

Market women, Customers, etc., etc.

STATE SECRETS.

| | |
|---|-------------------|
| Gregory Thimblewell, the Tailor of Tamworth, (with a song) | Mr. H. E. Bowring |
| Robert, his Son, | Mr. R. H. Parker |
| Master Hugh Neville (an officer in the Army of the Parliament, commanded by General Fairfax) | Mr. S. D. Serrine |
| Calverton Hal (a Cavalier belonging to the Army of Prince Rupert) | Mr. W. H. Miles |
| Humphrey Hedgehog (a wealthy Miller and Landlord of the Black Bull Inn, in Tamworth) | Mr. P. Margetts |
| Maud Thimblewell (the Tailor's Wife) | Mrs. Bowring |
| Letty, Daughter of Hedgehog (with a song) | Miss Thomas |

Cavaliers, Townspeople.

In those days the prices of admission were as follows: parquet, first and second circles, seventy-five cents; third circle, fifty cents. The doors opened at 6 o'clock, and performances commenced at 7.*

* In Chapter XXIV., Vol. I., it is stated that the first play ever produced in Utah was "Robert Macaire," presented at the "Old Bowery," in 1850 or 1851. Since that volume was published—prior to which careful research was made respecting this matter—Mr. Henry P. Richards, one of the earliest connected with the drama in Salt Lake City, has informed us that a play entitled "The Triumph of Innocence," in which he took part, was presented at the Bowery some time before "Robert Macaire," and that the dramatic company to which he belonged, and which gave this pioneer performance, was organized at the house of Joseph L. Heywood, in the Seventeenth Ward, with Robert Campbell as President. Its other members were Henry P. Richards, George Nebeker, W. D. Young, John L. Smith, William Glover, John Pyper, Ensign Rich, Edgar Blodgett, William Hyde, (afterwards founder of Hyde Park, Cache County) Mrs. J. L. Heywood, Mrs. Sarah



Engr. by E. Williams & Co. N.Y.

A. P. Richards.

De. 21. 1874

For some time prior to the opening of the Theater, performances at the Social Hall had been discontinued. The Deseret Dramatic Association having disbanded, the Mechanics' Dramatic Association, headed by the popular comedian Phil. Margetts, had taken its place. The Margetts combination played at "Bowring's Theater," a large room in the private house of Henry E. Bowring, Esq., fitted up with stage, scenery and the usual theatrical accessories. But the days of these primitive homes of the drama, except for an occasional amateur entertainment at the Social Hall, were now over. They were completely superseded by the great Thespian temple reared by Brigham Young.

The Salt Lake Theater was managed by Messrs. H. B. Clawson and John T. Caine, T. W. Ellerbeck being Treasurer, and upon its boards the reorganized Deseret Dramatic Association, which now included the Mechanics' combination, rose rapidly to recognition as a first class stock company. The actors and musicians in those days played without pay. They were "brethren and sisters," as much so upon the stage or in the "green-room," as at the meeting-house or in their private homes. They devoted themselves to the drama for pure love of the classic art, and to furnish wholesome amusement for the community. Among the members of the association, of which Brigham Young himself was President, were several of his own daughters, as well as other scions of well known Mormon families.


During the Theater's first season, home talent held the boards exclusively, but after that there began to arise upon its horizon dramatic stars from abroad; some of them of the first magnitude. Among the earliest stellar attractions may be mentioned the stately tragedian, Thomas A. Lyne, the versatile Irwins, the polished Pauncefort, and the magnificent Julia Dean Hayne.

Lawrence Kimball and Miss Sarah Badlam. The orchestra was composed of members of the Nauvoo Brass Band, Phil. Margetts playing the cornet. After "The Triumph of Innocence," several other pieces were presented by this company prior to the performance of "Robert Macaire" by Messrs Kay, Clawson and others.

CHAPTER II.

1861-1862.

UTAH AGAIN ASKS FOR STATEHOOD—GOVERNOR DAWSON AND HIS DISGRACE—THE STATE CONVENTION — GOVERNOR YOUNG'S MESSAGE — WILLIAM H. HOOPER AND GEORGE Q. CANNON SENATORS ELECT TO CONGRESS — COLONEL BURTON'S EASTERN EXPEDITION — PRESIDENT LINCOLN REQUESTS GOVERNOR YOUNG TO PROTECT THE OVERLAND MAIL ROUTE AND TELEGRAPH LINE—A PROMPT RESPONSE—LOT SMITH'S INDIAN EXPEDITION — THE MORRISITES.

 HE year 1862 saw Utah again knocking for admission at the portals of the Federal Union. Not content with manifesting her loyalty by a superb Fourth of July celebration, while the nation whose birth she thus commemorated was locked in a death struggle with her powerful and determined foe, Secession; or by patriotic telegrams, the first to pass over the lately completed overland line, our Territory proposed to prove unmistakably her faith in the perpetuity of American institutions, and her desire and design to maintain them, by seeking to become identified with that Union whose very existence was now threatened, whose glorious integrity seemed literally crumbling to atoms.

The prospects for success at this time were very flattering. Delegate Hooper, writing from Washington to Apostle George Q. Cannon, in December, 1860, had said: "I think three-quarters of the Republicans of the House would vote for our admission; but I may be mistaken. Many say they would gladly swap the Gulf States for Utah. I tell them that we show our loyalty by trying to get in, while others are trying to get out, notwithstanding our grievances, which are far greater than any of the seceding States; but that I consider we can redress our grievances better in the Union than out of it." Such was the view taken by Utah's delegate before the war began. Such was the general feeling of

her citizens now that the great conflict had commenced and the Union was in deadly peril; success, so far, having smiled upon the militant efforts of the Confederacy. Utah was for the Constitution and the old flag, and proved it by applying for statehood at a time when other States had just seceded, had fired upon that flag, unfurled another banner to the breeze, and were now in arms against the Federal Government.

The movement for statehood to which we refer began early in December, 1861. On the 9th of that month the Utah Legislature convened in regular session at Salt Lake City and organized by electing Daniel H. Wells President of the Council and John Taylor Speaker of the House. At the beginning of the session a bill—Council File No. 2—was introduced for an act providing for a convention of delegates for the formation of a constitution and state government. This bill, being passed by both branches of the Legislature, was presented to Governor Dawson and by him vetoed. The Governor gave as his principal reason for disapproving of the measure that the time intervening between the passage of the act and the date fixed in the act itself—January 6th, 1862—on which to take the sense of the electors of the Territory for or against a state convention, was too short to allow due notice to be given to the people, or for the act to be officially submitted to Congress prior to the election of delegates to the convention or the holding of the convention itself. On the other hand the legislators and the people generally held that it was not necessary to first submit the act to Congress in order to render it operative. They maintained that an act passed by the assembly and approved by the Governor would go into effect and remain so unless Congress disapproved it. The Legislature was of course powerless to do more in the premises—at least for the present—but the people throughout the Territory convened in mass meetings on the 6th of January and elected delegates to the state convention to be held at Salt Lake City on the 20th.

Meantime Governor Dawson had fallen into disgrace and left the

Territory. Mr. Stenhouse states that he was made "a victim of misplaced confidence and fell into a snare laid for his feet by some of his own brother officials."* Be this as it may, it is a fact that Governor Dawson made indecent proposals to a respectable lady of Salt Lake City, and fearing chastisement at the hands of her relatives or friends, hastily departed, on the afternoon of the last day of 1861, for his home in Indiana. He was accompanied by a Dr. Chambers. Reaching Hanks' mail station, at Mountain Dell, between Little and Big mountains, that night, the Governor was set upon by a gang of rowdies, who robbed and then assaulted him shamefully; kicking and beating him until he was exhausted. Among those accused of committing the outrage were Jason Luce, Wood Reynolds, Lot Huntington and Moroni Clawson. One of these men—Wood Reynolds—is said to have been related to the lady to whom Governor Dawson made insulting advances. The other assailants were merely drunken desperadoes and robbers, who were soon afterwards arrested for their cowardly and brutal assault upon the fleeing official. One of them, Lot Huntington, was shot by Deputy Sheriff O. P. Rockwell, on January 16th, at Faust's Station in Rush Valley, while attempting to escape from the officers, and two others, John P. Smith and Moroni Clawson, were killed during a similar attempt, next day, by the police of Salt Lake City. Their confederates were tried and duly punished. The men killed were guilty of other robberies besides that committed on Governor Dawson, and their tragic taking off was not regretted by the general community.

The Governor having left the Territory, Secretary Fuller again assumed the duties of the Executive. Among the Legislative measures which received his sanction was a memorial to Congress asking for the admission of Utah into the Union.

On the 20th of January, 1862, the members elect of the State Convention assembled at the County Court House in Salt

* "Rocky Mountain Saints," page 592.

Lake City. The *Deseret News* gives the following list of the delegates present:

Great Salt Lake County.—Daniel H. Wells, Abraham O. Smoot, Elias Smith, James Ferguson, Reuben Miller, Wilford Woodruff, Archibald Gardner, Albert Carrington, John Taylor.

Davis County.—Lot Smith, Thomas Grover, William R. Smith, Christopher Layton, Samuel W. Richards.

Weber County.—Aaron F. Farr, Lorin Farr, Chauncey W. West, Jonathan Browning, James McGaw, Crandall Dunn.

Box Elder County.—Lorenzo Snow, Jonathan C. Wright, Alfred Cordon.

Cache County.—Ezra T. Benson, Peter Maughan, William B. Preston, William Hyde, Preston Thomas, William Maughan, Seth M. Blair.

Summit County.—Thomas Rhoads, Henry W. Brizzee, John Reese.

Tooele County.—Evan M. Greene, John Rowberry, Eli B. Kelsey.

Shambip County.—Lysander Gee.

Cedar County.—Zerubbabel Snow, William Price.

Utah County.—Leonard E. Harrington, James W. Cummings, Albert K. Thurber, Lorenzo H. Hatch, Benjamin F. Johnson, Aaron Johnson, Wm. M. Wall.

Juab County.—Timothy B. Foote, Israel Hoyt, Jonathan Midgley.

Sanpete County.—Frederick W. Cox, Orson Hyde, Matthew Caldwell, William S. Seeley, Bernard Snow, Madison D. Hambleton.

Millard County.—Thomas Callister, Thomas R. King, Levi Savage, Jr.

Beaver County.—William J. Cox, E. W. Thompson, James H. Rollins.

Iron County.—Hosea Stout, Silas S. Smith, Horace S. Eldredge.

Washington County.—John M. Moody, William Crosby, George A. Smith.

The officers elected by the convention were: Daniel H. Wells, President; William Clayton, Secretary; Patrick Lynch and Robert L. Campbell, Assistant Secretaries; Robert T. Burton, Sergeant-at-

Arms; Andrew Cunningham, Foreman; John W. Woolley, Doorkeeper; James F. Allred, Assistant Doorkeeper; David P. Kimball, Messenger; Henry Heath, Assistant Messenger; Joseph Young, Chaplain. The officers having been sworn, the various committees appointed, and the freedom of the convention extended to Presidents Brigham Young and Heber C. Kimball, acting-Governor Fuller, Hon. William H. Hooper, Chief Justice Kinney and others,—Federal, Territorial and City officials,—an adjournment was taken until January 22nd. On that day the Constitution of the State of Deseret, with a memorial to Congress praying for the admission of said state into the Union, was unanimously adopted. The first general election under the constitution was set to take place on the first Monday in March. The convention closed on the 23rd of January, after nominating for the coming election Brigham Young as Governor, Heber C. Kimball as Lieutenant-Governor, and John M. Bernhisel as Representative to Congress for the proposed State of Deseret.

The election was held on the day appointed—March 3rd—the constitution was unanimously adopted by the people, and the officers named elected without a dissenting vote. An election for Senators and Representatives of Deseret occurred simultaneously, and on the 14th of April, pursuant to proclamation by the Governor elect, the first General Assembly of the State convened at the Council House in Salt Lake City. Seventeen counties were represented. The Senate organized with Hon. John Taylor as President, and the House with Hon. Albert P. Rockwood as Speaker. In joint session they listened to Governor Young's message, a few paragraphs of which are here inserted :

Whether our revolutionary fathers varied much or little from the spirit and letter of the Constitution in their initiative legislation relative to citizens settling on the public domain, or whether at that period it was within their power to have legislated more in accordance with the Constitution, are questions it is probably needless to dwell upon at present. Certain it is that at an early day, it was deemed proper to institute Territorial governments for settlers on the public domain, which usage is continued to the present; from these embryo governments States were to be formed and admitted into the Union.

* * * * *

In a Republican Government like ours I hold that both justice and consistency require that citizens in Territories, however few in number, should at least have not only a voice, but also a vote in the Representative Branch of the General Government, a vote for the Chief Magistrate, and their choice in the officers appointed by him, except perhaps, the Secretary, and Judges and other law officers so far as their official acts are exclusively restricted to business pertaining to the United States as a party: and still more just and consistent would it be were the people allowed one Representative in Congress and to elect all their officers with the exceptions already named. And then, when the people in a Territory properly express their wish to assume the responsibility and expense of a State government, upon their presentation of a constitution republican in form, with a petition for admission, the Declaration of Independence, the Constitution, justice, and the most ordinary regard for the rights of their fellow-citizens all combine to counsel Congress to cordially welcome and at once admit that Territory into the family of States, regardless of the number of its population.

* * * * *

California, occupying, like Utah, territory ceded to the United States by the treaty of Guadalupe Hidalgo, February 2nd, 1848, and having passed a short period under what may be called a military-civil government, met by her delegates in convention, formed a constitution, ratified it on the 13th of November, 1849, by a very unanimous vote, and at the same time "elected a Governor, Lieutenant-Governor, members of the Legislature and two members of Congress." On the 15th of December next after the general election the Legislature convened, organized, proceeded to elect the State officers made elective by the Constitution, two Senators to Congress, and to legislate upon such matters and in such manner as in their judgment circumstances required. Thus California without having undergone a Territorial pupilage stepped at once upon the platform of State action and was admitted into the Union on the 9th of September, 1850, and that too as constitutionally, lawfully, and properly as any other state has been admitted, having, "a substantial civil community, and a republican government."

On the 1st of September, 1849, the day the convention began its session, the largest number claimed by California was some 43,000, a number probably about one half the present population of Utah.* I think this places us comparatively on a very respectable footing as to numbers, and do not see that anyone can consistently object to the larger number doing what was sanctioned on the part of so much the lesser number. It may also be proper, in order to verify an historical event, to here remark that the sudden increase of population in California in 1849, from the best information I have, was chiefly due to the previous first known discovery there of gold by members of the Mormon Battalion, which battalion also very efficiently aided in wresting from Mexico that fertile and valuable region. Again the census of 1860 shows the population of Oregon to be 52,464, and she enjoys all the blessings and privileges of state government, on an equality with her sister states.

*The official returns of the census of 1860 gave Utah a population of 40,273. but this was regarded as a very imperfect showing.

Most fully are we aware that no improper, ambitious, or disloyal motives have induced us to prefer following in the state precedental footsteps made by California, but for reasons so justly urged for her admission, and because our position is still more isolated than hers, our population is already numerous and rapidly increasing, our territorial organization is each year growing less adapted to the necessities of the people who are wearied in being so long disfranchised, while winning to civilization and freedom a region so forbidding, and, more than all, because it is our inalienable and constitutional right, have we adopted a like course in seeking our admission and in our subsequent action.

* * * * *

In this connection, and while our nation, with a large and rapidly increasing public debt, is struggling to preserve the integrity of her boundaries, I deem it proper to suggest that our admission will leave in the public treasury some \$34,000 annually appropriated for our territorial expenses, and will add to the revenue the full amount of our annual quota of the governmental tax. * * * * *

In accordance with an act passed by Congress, in July last, nearly \$27,000, of the direct tax was apportioned to Utah. I was gratified that our legislative assembly so promptly assumed the payment of our quota of that tax; and without question this general assembly, should they deem further action on that subject necessary, will with equal patriotism adopt such measures as will best sustain our government in its financial affairs, so far as our apportionment and every constitutional requirement are concerned. But I wish it distinctly understood that I object to any action being taken in this or any other matter, except on the ground of right and justice, and in no wise as an evidence of our loyalty, for it has oftimes been severely tested, and has on every occasion emerged from the test with unsullied purity. We are not here as aliens from our government, but we are tried and firm supporters of the Constitution and every constitutional right.

An adjourned session of the Assembly was held on April 16th, when other State officers were chosen as follows: Senators to Congress, William H. Hooper and George Q. Cannon; Secretary of State, Daniel H. Wells; Treasurer, David O. Calder; Auditor of Public Accounts, William Clayton; Attorney-General, Aurelius Miner; Chief Justice, Elias Smith; Associate Justices, Zerubabbel Snow and Seth M. Blair.

Senator-elect Hooper set out for Washington on the 26th of April. His colleague, Apostle Cannon, who was in Europe at the time of his election, was expected to join him at the nation's capital. Dr. Bernhisel was already at the seat of government, having been re-elected, in August, 1861, Utah's Delegate to Congress. During the previous term, it will be remembered, Mr. Hooper represented the Territory in that capacity. He succeeded in obtaining a settlement

of some of Utah's claims against the general government. Most of these were for expenses of the Territorial Legislature. A very inadequate appropriation was made by Congress on account of Utah's Indian wars.* He was accompanied east in the spring of 1862 by Hon. Chauncey W. West, and a mounted escort under Colonel Robert T. Burton, detailed by Lieutenant-General Wells, upon requisition from acting-Governor Fuller, to guard the mail stage and passengers across the Indian-infested plains. The savages at that time were very hostile. They had destroyed the mail stations between Fort Bridger and North Platte, and were attacking and robbing coaches and killing travelers. It was for this reason that Colonel Burton, with thirty men, well armed and equipped, was detailed for the special service mentioned. His report to Governor Fuller was as follows:

DEER CREEK, May 16, 1862.

Governor Fuller:

My detachment arrived here yesterday at 3 p. m., encountering no difficulty, save that caused by the mud, snow, etc. We have seen no Indians on the route; found all the mail stations from Green River to this point deserted, all stock having been stolen or removed, and other property abandoned to the mercy of the Indians or white men. We found at the Ice Spring station, which had been robbed on the night of the 27th, a large lock mail—twenty-six sacks, a great portion of which had been cut open and scattered over the prairie. Letters had been opened and pillaged, showing conclusively that some renegade whites were connected with the Indians in the robbery. The mail matter, after being carefully collected and placed in the sacks, I have conveyed to this point, also ten other sacks of lock mail, from the Three Crossings; all of which will be turned over to the mail agent at La Prele. Twenty miles from this, we will meet men from the East for this purpose. The United States troops from the East will be in this vicinity tomorrow; and, unless otherwise directed by yourself or General Wells, I will return immediately, halting on the Sweetwater to investigate still further the causes of the difficulty, as I have not been able to learn who or what Indians positively have been engaged in the matter; but suppose it to be about thirty renegade Snakes and Bannacks from the north. Some of the party spoke English plainly, and one the German language. Hon. W. H. Hooper and Mr. C. W. West will take passage in the coach that comes for the mail.

R. T. BURTON, Commanding.

* The movement for Statehood having failed, Captain Hooper, at the expiration of Dr. Bernhisel's term, was re-elected delegate, and represented Utah during several successive Congresses.

“The year 1862,” says Colonel Burton, in a supplemental account of this expedition, “will be remembered as the season of the highest water ever experienced in the mountains; as a consequence travel (over the mountains) was almost impossible. Some idea may be formed of this matter from the fact that it took this command, with all their energy and exertion, nine days to go to Fort Bridger, a distance of only one hundred and thirteen miles from Salt Lake. Most of our wagons had to be dispensed with at Fort Bridger, at which point we proceeded mainly with pack animals. It is proper, also, to state that we received from the Government officers stationed at the military post at Fort Bridger, provisions, tents, camp equipage, etc., all that was within their power to grant.* From this point (Fort Bridger) all the mail stations were abandoned, many of them burned, some of the coaches still standing upon the road riddled with bullet holes from the attack made by the Indians at the time the drivers and passengers were killed. In some of the mail stations west of the Devil’s Gate we found large numbers of mail sacks which had been cut open by Indians and the contents scattered over the ground, which were carefully picked up by my company and carried on to the North Platte and turned over to the mail contractor at that point. The coaches were enabled to come west as far as La Prele station, a distance of some thirty miles east of the Platte.

“The expedition was one of the most hazardous and toilsome we were ever called upon to perform, but succeeded admirably without the loss of a man or animal. Returned to Salt Lake City thirty days from the time of starting and were mustered out of service by Governor Fuller.”

Just two days after Colonel Burton’s departure from Salt Lake City, President Lincoln, through Adjutant-General Thomas, called upon ex-Governor Young to raise, arm and equip a company of cavalry to be employed in protecting the property of the Telegraph and Overland Mail companies in and about Independence Rock, the scene

*Fort Bridger, since Echo Canyon war times, had been a U. S. military post.

of a late Indian disaster. The company was to be organized as follows: One captain, one first lieutenant, one second lieutenant, one first sergeant, one quarter-master sergeant, four sergeants, eight corporals, two musicians, two farriers, one saddler, one wagoner, and from fifty-six to seventy-two privates. The men were to receive the same pay as that allowed to United States troops, and were to continue in service for ninety days, or until they could be relieved by a detachment of the regular army. The call was responded to with alacrity, as the following telegram will testify:

GREAT SALT LAKE CITY, May 1st, 1862.

Adj't-Genl. L. Thomas, U. S. A., Washington City, D. C.:

Immediately on the receipt of your telegram of the 28th ult., at 8:30 p. m., I requested General Daniel H. Wells to proceed at once to raise a company of cavalry to be mustered into the service of the United States for ninety days, as per your aforesaid telegram. General Wells forthwith issued the requisite orders, and yesterday the captain and other officers were sworn by Chief Justice J. F. Kinney, the enrolling and swearing in of the privates attended to, and the company went into camp adjacent to this city.

Today the company, seventy-two (72) privates, officered as directed, and ten (10) baggage and supply wagons, with one assistant teamster deemed necessary, took up their line of march for the neighborhood of Independence Rock.

BRIGHAM YOUNG.

The officers of the company were: Captain, Lot Smith; first lieutenant, Joseph L. Rawlins; second lieutenant, J. Quincy Knowlton; orderly sergeant, Richard H. Atwood; quartermaster sergeant, James M. Barlow; sergeants, Samuel H. W. Riter, John P. Wimmer, Howard O. Spencer, Moses Thurston; corporals, Seymour B. Young, Newton Myrick, William A. Bringhurst, John Hoagland, Joseph H. Felt, John Neff, Andrew Bigler, Hyrum B. Clemons; farriers, Ira N. Hinkley, John Helm; saddler, Francis Platt; wagoner, Solomon Hale; musicians, Josiah Eardley and Charles Evans.

The famous Ben Holladay was then proprietor of the Overland Stage line, to protect which Captain Smith's company went forth. He at once telegraphed from New York his thanks to Governor Young for his "prompt response to President Lincoln's request," and promised that as soon as "the boys" could give protection, the mails which had been interrupted should be resumed.

The Lot Smith in command of the expedition to Independence Rock was the same officer who, as Major of militia, burnt the Government trains on Green River in the fall of 1857. He and his comrades now rendered equally efficient service in the cause of "Uncle Sam," and won golden opinions from the United States army officers who subsequently joined them with troops and directed their later movements. From Pacific Springs on the 15th of June, Major Smith thus wrote to President Young:

President Brigham Young,

DEAR SIR:—I had an interview with Brig.-General Craig, who arrived by stage at this point. He expressed himself much pleased with the promptness of our attention to the call of the General Government, also the exertions we had made to overcome the obstacles on the road, spoke well of our people generally; he also informed me he had telegraphed to President Lincoln to that effect, and intended writing him at a greater length by mail. I received written instructions to the effect that he had placed the whole of Nebraska Territory under martial law; Utah, he remarked, was perfectly loyal, and as far as he knew always had been. He also remarked, we were the most efficient troops he had for the present service, and thought as we had broke into our summer's work, of recommending President Lincoln to engage our services for three months longer.

A subsequent communication ran as follows:

PACIFIC SPRINGS, June 27th, 1862.

President Young,

DEAR SIR:—I have just received orders from General Craig through Colonel Collins to march my command to Fort Bridger to guard the line from Green River to Salt Lake City, and start from here tomorrow morning.

Lieut. Rawlins and command arrived here yesterday; owing to neglect of the mail, my orders to Lieut. Raylins did not reach him until eight days after they were due, consequently there has been no detail left at Devil's Gate.

There has been built by the command at the former place a log house twenty feet by sixteen feet, with bake houses, and attached also a commodious corral.

Lieut. Rawlins has left the above station of Major O'Farral, Ohio volunteers, but occupied by Messrs. Merchant and Wheeler, traders, who formerly owned the station that was destroyed there; the property is subject to our order at any time. The command also made a good and substantial bridge on Sweetwater; three of our teams crossed over; the mail bridge would have been two dollars per wagon, this bridge is free, and also in charge of Major O'Farral. Several emigration companies crossed during the time the command was there, free. One company presented us with a good wagon, which Lieut. Rawlins handed over to Captain Harmon.

I have had frequent interviews with Col. Collins and officers; they have behaved

very gentlemanly, and express themselves much pleased with our exertions, and seemed disposed to render us every assistance to contribute to our comfort.

Col. Collins is decidedly against killing Indians indiscriminately, and will not take any general measures, save on the defensive, until he can ascertain satisfactorily by whom the depredations have been committed, and then not resort to killing until he is satisfied that peaceable measures have failed.

Col. Collins and officers all allow we are best suited to guard this road, both men and horses; they are anxious to return, and if they have any influence, I imagine they will try to get recalled and recommend to Utah to furnish the necessary guard. The Colonel has just left our camp, he has sent for Washakie, chief of the Snakes, with a view to make treaty or obtain information. No sickness at all in camp at present. We are attached to Col. Collin's regiment, Gen. Craig's division, and furnish our muster, descriptive and other returns to that command. Should General Wells require duplicates we will forward them.

I am sir, yours respectfully,

LOT SMITH.

In the latter part of July Major Smith and the larger portion of his command set out from the vicinity of Fort Bridger in pursuit of a band of hostile Indians who had robbed the ranch of a mountaineer in that neighborhood named John Robinson. They penetrated to the very heart of the Indian country, in the Snake River region, following the trail of the savages by forced marches for eight days; part of the time on short rations, and all of the time enduring severe hardships. They were not successful in overtaking the hostiles, though pressing them close, and reaching the vicinity of the Three Tetons about the end of July. On the 25th of that month, while crossing the Lewis Fork of Snake River, one of the company, Donald McNichol, was carried away by the swift current and drowned. This was the only fatality in the ranks of the expedition. The company returned to Salt Lake City on the 9th of August, and were mustered out of service on the 14th. The expedition, though but one life was lost, and that by accident, was nevertheless one of the most hazardous in the annals of local Indian warfare. This was probably the last service performed by a body of Utah militia beyond the limits of the Territory. The expenses incurred by both Colonel Burton's and Major Smith's expeditions were promptly met by the general government.

A writ issued by Chief Justice Kinney, of the Third Judicial Court of Utah, on the 10th of June of this year, directing Henry W. Lawrence, Territorial Marshal, or Robert T. Burton, his chief deputy, to arrest five leading men of what was known as Kington Fort, in Davis County, and bring them forthwith before him, immediately led to the episode known as "the Morrisite War."* For an understanding of the events leading to that unfortunate affair it is necessary to briefly review the history, precepts and conduct of the sect called Morrisites.

Joseph Morris, a Welshman, and a member of the Mormon fraternity, claimed to have received on more than one occasion revelations for the guidance of the Church. Late in 1860 he read to President Young a couple of documents which he said he had been commanded from on high to deliver. They did not receive the respect and acceptance that he had hoped for, and he trudged off homeward disappointed and indignant. Reaching the little settlement at Kington Fort, he found a hospitable welcome, the bishop—Richard Cook—and others yielding a willing ear to his alleged

* Following is a copy of the writ:

TERRITORY OF UTAH, }
Great Salt Lake County. } ss.

To *Henry W. Lawrence Esq., Territorial Marshal, or Robert T. Burton:*

Whereas, Philo Allen, of Davis County, and Territory of Utah, hath this day filed a complaint, on oath, before me, that on or about the 1st day of May, A. D., 1862, in the County of Davis, and Territory of Utah, one Joseph Morris, John Banks, Richard Cook, John Parsons and Peter Klemguard, did then and there wilfully and without lawful authority, forcibly and against the will of William Jones and John Jensen, (imprison said William Jones and John Jensen) and have kept them in close confinement ever since, therefore you are hereby commanded to arrest said Joseph Morris, John Banks, Richard Cook, John Parsons, and Peter Klemguard, if they be found in your bailiwick, and have them before me forthwith, at the Court House in Great Salt Lake City, then and there to be dealt with according to law, and have you then and there this writ with your return thereon endorsed. Hereof fail not under the penalty of the law.

Given under my hand and the seal of the Third Judicial Court, at Great Salt Lake City, this 10th day of June, A. D., 1862,

[SEAL.]

JOHN F. KINNEY,
Judge, Third Judicial Court, Utah.

Attest: PATRICK LYNCH, Clerk.

supernatural communications. It was not until the 6th of April, 1861, however, that what he called "the commencement of the reorganization of the Church of Jesus Christ of Latter-day Saints" was formally inaugurated. From the six members baptized, confirmed and ordained by him on that occasion as the nucleus, the sect grew with considerable rapidity, some additions being received the same day, and one year later it numbered upwards of five hundred adherents. Morris became its president, and on the organization being completed, Richard Cook and John Banks were chosen counselors. To these was added a council of Twelve Apostles, each of whom was bound by a solemn oath sworn "in the presence of the Father, and of the Son, and of His servant, the Prophet," to uphold the latter, "and abide his counsel in all things." A distinctive doctrine of the new creed was that the coming of the Savior was at hand, and that instead of sowing and reaping and following worldly pursuits, the elect people should hold themselves in daily readiness to receive Him. They were there to learn, not to labor. The gathering into one location was insisted upon, and Kington Fort, just west of the mouth of Weber Canyon and in the bottom lands on the south side of the stream, was designated as the spot. That the sect gave small thought to the prosaic concerns of life is evident from their choice of a gathering place. There was scarcely any unoccupied farming land in the vicinity, and there is no intimation that any was wanted. The duties of the household were performed, and these, with occasional journeys to the canyon for wood, and to the surrounding settlements for breadstuffs, comprised the sum of the temporal labors of the expectant community. Their houses were ranged around a quadrangular area after the manner of a fort, but there were open spaces between them, besides the four streets entering one from each side. There was a bowery on one side of the enclosure, a school-house near the center, and a tent, also used for a place of meeting, near the school-house. It was the leader's custom to receive revelations at least once a week, and his followers spent most of their time in

attendance upon the meetings. All property was held in common, and though they could not but notice that their belongings were decreasing day by day through being sold or exchanged for the necessities of life, the zealous flock looked forward with contented joy to the day when the possessions of their enemies should all be given to them. It was charged that some of them, in anticipation of that day, had levied upon their neighbors' herds. The occasional mistakes made in the prophet's reckoning as to the day of their deliverance do not seem to have shattered their faith. Several times he fixed a date, only to be disappointed; but it was sufficient explanation to say that the revelation had been improperly translated. The 30th of May, 1862, was probably the last date upon which great hopes had been built. For that occasion an imposing procession was arranged and at its head rode Morris seated on a white horse, and wearing a hat surmounted by seven crowns. Behind rode his counselors, one mounted on a red horse and bearing a sword, typifying conquest even through blood, the other, riding a black horse and carrying a pair of scales, signifying the meting out of justice, even unto death. Other leaders followed on foot and horseback, there was a martial band, and the whole male force in military order and under arms. After various evolutions and incantations, the whole procession formed about Morris who, standing upon a raised and carpeted platform, waved his rod and shouted: "Be it known to all the earth that I am Moses," and his audience enthusiastically hailed him as such.* But the heavenly guest and deliverer still delayed his coming, and matters in and outside the fort were approaching a crisis.

* President Wilford Woodruff states that prior to this time he and Apostle John Taylor visited Kington Fort and held a meeting with the people. The former asked the Morrisite leader as to the nature of his claims and expectations. Morris replied that he was Gabriel, Michael, Moses, etc. Apostle Woodruff then said: "Well, when the angel Gabriel comes to blow his horn I don't think he'll stay around here for thirty days, living with another man's wife, as you have been doing." Morris, it appears, had previously been cut off from the Mormon Church for adultery. After the visit of Apostles Taylor and Woodruff the entire community was excommunicated for apostasy.

While utterly indifferent to the forms of law, and neither conforming to, nor, as the sequel shows, respecting them, the sect nevertheless early showed a fondness and a capacity for military organization. Among its members were men said to have seen actual service on "the tented field." Certainly the fort soon took on the appearance of a well-disciplined camp, with regular drills, sentries, salutes and passwords, and all the pomp and circumstance of prospective war. The inhabitants were not only a law unto themselves,—theirs was martial law. Their prophet was their captain-at-arms, and they all swore and subscribed to an oath that having been called by him they would "obey him and defend unto death at the peril of their lives the law of God." At the time of the pageant above referred to, the military strength of the sect numbered one hundred and forty-two enrolled men, divided into ten companies, each having its captain, with a score or two more who trained and bore arms but were not enrolled. John Fred Klingbeck seems to have been the chief military spirit, ranking next to Morris, and holding the title of Lieutenant-at-arms.

To the surrounding settlers the threats and warlike behavior of the Morrisites offered a constant menace. It is not to be presumed that there was any intention of visiting upon non-believers at that time the destruction to which Morris' followers believed them to be doomed; but their life of idleness, their avowed expectation that the fullness of the earth was soon to be theirs, and above all their military attitude and persistent defiance of law, caused them to be viewed with mistrust if not with fear by their neighbors. Twice were officers of the courts, whom duty called to serve writs in the recalcitrant fort, met at the gates and forcibly and rudely driven back; brilliant evidence to the boastful inmates of their power to withstand their enemies and of the speedy approach of the day when they would put them under foot.

They were destined to a stern awakening from this folly through dissensions in their own ranks. William Jones, who was an early convert, was not impractical enough to leave the crop unharvested

which he had just sown when he joined the sect. His worldliness caused him to be regarded as of little faith; yet when he returned to the fort with his two hundred bushels of wheat, there seems to have been no objection whatever to receiving it into the common fund, to which, in the first days of his conversion, he had also contributed about sixteen head of cattle. When spring came again he was found to be no less practical than before, and he had the hardihood to desire to once more plant his farm. To this and to his wish to sever relations with his improvident brethren, there came an unfavorable response. His own apostasy might have been tolerated, but he wanted to take away the remnant of his possessions, and this was resisted. By strategy he at length succeeded in escaping with his wagon and yoke of oxen; but being hotly pursued, he abandoned them and made his way alone to Kaysville. At this time the Morrisites were obtaining their flour at Kaysville, and Jones found no difficulty in sending word to the fort through the teamsters that he wanted his family to be allowed to join him. He was a determined man, and repeated refusals of this natural request incensed him. He finally stopped one of the flour teams, compelled the teamster to abandon it and walk back to the fort, while he turned the cattle loose. But retaliation soon followed. Himself and two other seceders were surprised in the night by an armed detachment under Peter Klemgaard, one of the Morrisite captains, and carried back, loaded with chains, to the fort. Thrown into a log house used for a jail, they were kept in close confinement upon no charge that they could learn of, and certainly under no warrant of law. This was early in the month of May. An escape was soon planned by the doughty Jones, who, however, was too heavily ironed to avail himself of it. One of his companions succeeded in eluding the sentries; the other rushed headlong into the arms of one of them, mistaking him for his companion. He was promptly returned to jail.

But outside friends took up the cause of the imprisoned men and, on the 22nd of May, Chief Justice Kinney issued a writ of *habeas*

corpus, commanding Joseph Morris, John Banks, Richard Cook and Peter Klemgaard to bring before him the bodies of the three men held in custody. Marshal Lawrence appointed his deputy, Judson L. Stoddard, to serve the writ. And that resolute officer, accompanied by two friends, entered the fort in spite of threats and warnings that they were taking their lives in their hands, and read the court's order to Morris and others collected in an excited group to hear it. Banks replied defiantly that they would take no notice of the writ, they would not release their prisoners, and they neither feared nor regarded any governor, judge, or law except their own. The deputy tried to leave a copy of the writ but it was rejected; endeavoring to serve the paper, it fell to the ground, and Klemgaard restrained the man who started to pick it up. A shovelful of live coals was brought from a neighboring house and deposited upon the paper, which burned where it lay. Stoddard made return of his service, and though a grave insult had been offered the law and its representative, no further move was made for more than two weeks, when at the repeated and urgent importunities of the wives and other relatives of the imprisoned men, the writ for the arrest of the five rebellious Morrisite leaders, for the unlawful detention of Jones and Jensen, was issued as first cited in this narrative.

The next day, June 11th, a writ of attachment was issued for their arrest for contempt of court, and at the instance of Judge Kinney and upon the requisition of Territorial Marshal Lawrence, through his deputies, Robert T. Burton and Theodore McKean, Acting-Governor Fuller, on June 12th, called upon General Wells to furnish a sufficient military force to act as a *posse comitatus*, "for the arrest of the offenders, the vindication of justice and the enforcement of the law." Marshal Lawrence had opposed Judge Kinney's idea of enforcing the court's orders by a military display, urging that resistance would be provoked and innocent blood might be shed. His unwillingness to be a party to such a step doubtless led to the delay which ensued after Stoddard's return, before the final writs were issued. Just prior to the latter event Lawrence left

for the East, and the responsibility of resisting or carrying out the court's orders devolved upon his deputies. General Burton was likewise opposed to forcible measures; but upon being informed by Judge Kinney that further delay could not be tolerated, he asked for a sufficient force of men to overawe the rebels and enforce their surrender without bloodshed.* Accordingly when he moved upon the fort early on the morning of the 13th, he was at the head of two hundred and fifty men with a six-pound gun and a brass howitzer. A proclamation addressed to the persons named in the writ was sent in, demanding a surrender within thirty minutes; or, if resistance were determined on, warning the insurgents to remove their women and children to a place of safety, and stating that peaceably-disposed persons could find protection with the posse. This message was delivered to Banks, who submitted it to Morris, and the latter went to inquire about it of the Lord. Meanwhile the band played and the signal calling the people to the bowery was sounded. Morris shortly joined them, with a written revelation which was read to his council first and then to the assemblage. It promised that not one of the faithful should be destroyed, but that the power of their deliverance should be seen in the total destruction of those sent to oppress them. His counselor, Cook, was just asking which command the people should obey, Burton's proclamation or the revelation, when the second sound of the posse's cannon was heard and a ball crashed into the bowery, killing two women and wounding a young girl. Hostilities were begun and the assemblage scattered.

It is certain that at least one hour, and very likely two, elapsed after Banks received the Marshal's proclamation before a shot was fired. The commanding officer was so averse to resorting to extremities that he repeatedly sent couriers from his position on the bluff down toward the fort to see if there were any signs of compliance or surrender. At length he ordered the officer in command of the artillery to fire two shots over the fort as a warning to the

* President Young was also very much averse to the execution of the process, fearing that it might result in bloodshed.

belligerents. The first shot passed high above the garrison and struck the opposite bluff. The second struck in a field between the posse and the fort, bounded in and did the deadly work in the bowery. Of this, however, nothing was known to the posse until after the surrender.

Volley after volley from the entrenched and now infuriated Morrisites was the first decisive answer to the proclamation; and the posse was at once put in the most effective position to perform its stern duty without loss of time. The fort was speedily invested and while some who attempted to escape were captured, there were also many who availed themselves of the Marshal's offer of protection. In the first day's siege, Jared Smith, one of the posse was killed. General Burton communicated the fact and his operations thus far to Acting-Governor Fuller by messenger that evening, and next day received the following reply:

EXECUTIVE DEPARTMENT, UTAH.

GREAT SALT LAKE CITY, JUNE 14th, 1862.

Colonel R. T. Burton, Deputy Territorial Marshal, U. T.:

SIR:—The shedding of blood in resistance to civil authority renders execution of the law imperative. The service of the writs submitted to you is expected at your hands, and you have been empowered to call to your aid a sufficient force for the purpose. Let your acts be tempered with mercy; but see that the laws are vindicated.

FRANK FULLER, Acting-Governor.

The second day of the engagement was uneventful; a heavy rain interfered with active operations, though desultory firing was indulged in by both parties. The inmates of the fort opened the third day's proceedings at daylight, and during the morning a number of sharp assaults were made by the posse. One of these, undertaken late in the afternoon, resulted in the loss of another of the posse, but led to the capture of one of the outer buildings from which the Morrisites had kept up a galling fire. The end of the contest was now at hand. A rude but effective movable barricade, consisting of a shield of brush and boards supported by wagon-wheels, and manned by about a dozen soldiers, was next sent rolling down toward one of the gateways of the fort and was able to draw

very near while still affording perfect shelter to those behind it. These movements,—similar to those employed by the Utah militia against the Indians in an earlier day,—carried dismay to the inmates of the fort; and becoming convinced at last that they were dealing with a force which meant to fulfill the errand upon which it had been sent, they hoisted the white flag.

This was about sunset of the third day, Sunday, the 15th of June. Firing was at once suspended, and General Burton, anxious to arrange the capitulation without further delay, moved forward, accompanied by two men and a bugler, to meet the flag of truce. To the bearer of it he announced that he insisted upon an unconditional surrender, and that the acceptance of these terms should be shown by the Morrisites stacking their arms in the open space in the fort. Almost immediately the men who gathered to hear what the terms were, began to cast their guns in a heap in the center of the square, and the leader of the posse, commanding the men behind the movable barricade to follow him, entered the fort. Riding up to where the leader and the principal group were assembled, he stated what the court's orders were, but added that he now felt it his duty to place under arrest all the men who had been in armed resistance. Leave was asked for Morris to speak to the people, and it was granted on condition that he would say nothing to cause further excitement. Lifting his hands above his head, and turning toward the stacked firearms, he exclaimed: "All who are willing to follow me through life and death, come on." Shouts of approval greeted his words, and a dash was made for the firearms, which were poorly guarded by a few men who had followed General Burton into the fort. Many of the Morrisites who had not yet thrown down their weapons came running to the spot, and instantly an attempt was made to enter the schoolhouse in which more arms were stored. Nearly a hundred men confronted the deputy marshal and his slender escort. The moment was one of extreme peril. To dally was to court assassination for himself and party. Twice he commanded the frenzied leaders to halt. They heeded not, and the

struggle for the possession of the firearms had already begun. It was then that the commanding officer, seizing the pistol in his holster, fired twice at the leaders, while several of his associates did likewise. In all, perhaps a dozen shots were fired. When the smoke cleared away Morris was seen to be dead, Banks was mortally wounded, and two women, Mrs. Bowman and Mrs. Swanee, lay lifeless on the ground near their prophet. It is said that one of them hung upon his neck as he moved toward the arms, and several heroically sought to throw themselves between him and danger.

Sudden and unexpected as had been the uprising, it was as promptly and effectually quelled. There had been bloody work, but the insurrection was at an end. Some few exchanges of shots followed between the Morrisites near the wall and the posse outside, who could only construe the firing within as evidence that treachery was attempted; but it was immediately stopped by the commander's order. The bodies of the slain were conveyed into the schoolhouse, and the male survivors were made prisoners. They were marched to the headquarters of the posse, where John Banks died during the night. A message was sent to the acting-governor, informing him of the surrender, and early on the morning of Monday, the 16th, the bodies of Morris and Banks, two of the men whose arrest had been ordered in Judge Kinney's writ, were taken to Salt Lake City. Of the one hundred and forty men made prisoners, upwards of ninety were marched to the capital, arriving on the evening of the 17th.

Governor Fuller instructed General Burton that all able-bodied men among the prisoners, who were capable of bearing arms and had been found in resistance, should be held, and in the same communication he congratulated the officer on his success and the small number of casualties to his force from its entrenched and barricaded foe. On the 18th the prisoners were placed under bonds to appear at the March session of court, 1863.

What followed in relation to the Morrisite affair will be related in the course of another chapter.

CHAPTER III.

1862-1863.

ANOTHER FAILURE TO OBTAIN STATEHOOD—CONGRESS PASSES AN ANTI-POLYGAMY ACT—PRESIDENT LINCOLN SIGNS IT—GOVERNOR HARDING ARRIVES IN UTAH—HIS FRIENDLY ADDRESS TO THE PEOPLE—COLONEL CONNOR AND THE CALIFORNIA VOLUNTEERS—CAMP DOUGLAS FOUNDED—THE BATTLE OF BEAR RIVER.

DESPITE every favorable indication, Utah's effort for statehood in the year 1862, like all her former efforts in the same direction, failed of success. The constitution and memorial carried to Washington by Senator-elect Hooper were presented in the House of Representatives by Delegate Bernhisel on the 9th of June, and in the Senate by Vice-President Hamlin on the day following. At the same time Mr. Latham, of California, moved that the constitution and memorial be printed and that the senators-elect, Messrs. William H. Hooper and George Q. Cannon—the latter having joined his colleague according to arrangement at the capital—be admitted to the floor of the Senate. The motion was referred to the Committee on Territories. Next day Mr. Latham offered a resolution to the same effect, which was laid over. Messrs. Hooper and Cannon labored diligently to secure for their constituents the coveted boon of state sovereignty, and to impress congressmen and all whom they met with the justice and rightfulness of their cause. But all in vain. Though they succeeded in removing from the minds of statesmen, editors, and men of influence generally much prejudice in relation to Utah and her people, their efforts to induce the genii of national authority to touch with magic wand the Territory and transform it into a State, proved fruitless. The wall of prejudice was too thick to be penetrated. Though Utah was proving her loyalty, beyond all question, in standing by the Union

in the hour of its extreme peril, and even then had men in the field protecting the interests of the Government on the western plains, while the regular army was grappling with secession in the South, she was still deemed by many disloyal, unpatriotic, unworthy to be trusted with the privilege of governing herself, and of forming a portion of that Union which she was aiding to defend and uphold.

But there was also another barrier to Utah's admission, and probably at this period it was the main objection in the minds of the majority of congressmen. It was the Mormon practice of plural marriage—polygamy—which the Republican party, now in power, in its original platform had coupled with slavery and stigmatized them as “twin relics of barbarism.” It was rather too much to expect that the Republicans, now in the overwhelming majority in Congress, and consequently having the power to invest Utah with statehood if they so desired, would use that power in her behalf, in view of their recent declaration against polygamy, thereby placing a cudgel in the hands of their political opponents from whom they had but just succeeded in wresting the reins of national authority. Had the Mormons been willing to abandon polygamy in 1862, thus meeting the Republican party half way, it is not improbable that Utah, in view of her loyal attitude, might have been admitted into the Union; provided of course that the bug-bear of an alleged union of Church and State, of priestly influence in the politics of the Territory, had not acted as a deterrent to those who, barring these considerations, professed to be friendly to her people.

Possibly it was to help solve this problem,—to assist the Mormons to arrive at a conclusion to forsake the plural wife practice and “be like the rest” of the nation, as to monogamy, divorce, etc., that a bill was introduced in Congress in the spring of this same year, only a few weeks after the action of the State Convention of Deseret, to punish and prevent the practice of polygamy in the Territories, and, as afterwards appeared, to disincorporate the Church of Jesus Christ of Latter-day Saints. If this hypothesis be correct, the Mormons were to receive equal rights with and be treated

like the rest of American citizens, if they would put away their Mormonism and thenceforth cease to be a distinct people. General Clark, at Far West, in 1838, had made them essentially the same offer.

The bill in question was introduced in the House of Representatives on the 8th of April, 1862, by Justin S. Morrill, of Vermont. It was read twice and referred to the Committee on Territories. Being reported back on April 28th with a recommendation that it pass, the bill—H. R. No. 391—was again read. Mr. Morrill, its introducer, then said:

“I desire to say to the House that this is the identical bill passed about two years ago, when there was an elaborate report made by a gentleman from Tennessee, Mr. Nelson, and when it received the almost unanimous support of the House. The only difference between the two bills is this: that bill excepted from its provisions the District of Columbia, and that exception is stricken out in this bill. I presume there is no member of the House who is desirous to discuss this measure, and I move the previous question.”

A slight verbal amendment, the striking out of a surplus word on motion of Mr. Maynard, of Tennessee, was agreed to, and then ensued the following discussion:

MR. CRADLEBAUGH. I ask the gentleman from Vermont to allow me to offer an amendment.

MR. MORRILL, of Vermont. I prefer to have the bill pass as it is.

MR. CRADLEBAUGH. I think if the gentleman understood the character of the amendment he would not object. It is merely to correct the bill, and not for the purpose of throwing any impediments in the way of its passage. The bill, in its present shape, does not amount to anything.

THE SPEAKER. Does the gentleman withdraw the demand for the previous question?

MR. MORRILL, of Vermont. I decline to do so.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time.

MR. MORRILL, of Vermont. I move the previous question on the passage of the bill.

MR. BIDDLE. Is all debate necessarily cut off at this time?

THE SPEAKER. It will be if the previous question is sustained.

MR. BIDDLE. There are some of us who would like to hear debate, if not to participate in it.

THE SPEAKER. Does the gentleman withdraw the demand for the previous question?

MR. MORRILL, of Vermont. I decline to do so, and call for tellers.

Tellers were ordered; and Messrs. Cox and Chamberlain were appointed.

The House divided; and the tellers reported—ayes sixty-five, noes not counted.

So the previous question was sustained.

The main question was ordered to be put; and being put, the bill was passed.

The anti-polygamy bill, having passed the House, came up in the Senate on the 3rd of June. Following is the abridged record of the action taken upon it by that august body:

MR. BAYARD. I move to take up House bill No. 391. It was reported back from the Committee on the Judiciary, with amendments, about three weeks ago. It is a bill that ought to be acted upon.

The motion was agreed to; and the bill (H. F. No. 391) to punish the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah, was considered as in committee of the whole.

* * * * *

MR. BAYARD. I will state, very briefly, the difference between the bill as proposed to be amended by the judiciary committee, and the bill as passed by the House of Representatives. The bill of

the House is intended to punish the crime of polygamy, or bigamy properly speaking, when committed in any Territory of the United States; but, in point of fact, it goes beyond that—it punishes cohabitation without marriage. The committee, in their amendments, have so altered the first section as to provide for the punishment of the crime of bigamy, leaving the punishment for a similar offense, where marriage has been contracted elsewhere, to the State where it was contracted. We thought that clearly preferable, and that it would be of no utility to carry the act beyond the evil intended to be remedied, which was to put down polygamy, as a part of the recognized legal institutions of Utah.

* * * The second section of the bill is not altered at all; we leave it precisely the same as it was in the original bill. It repeals the ordinance of Utah, commonly called “An ordinance incorporating the Church of Jesus Christ of Latter-day Saints.” It is precisely in words like the section of the House bill, which is not altered in any respect.

The third section is an amendment of the committee, and it is in the nature of a mortmain law. The object is to prevent the accumulation of real estate in the hands of ecclesiastical corporations in Utah. Though that Territory is large, the value of real estate is not of large amount; and the object of the section is to prevent the accumulation of the property and wealth of the community in the hands of what may be called theocratic institutions, inconsistent with our form of government. In my own judgment it would be wiser to limit the amount of real estate that could be held by any corporation of that character in a Territory, to the value of \$50,000, I think \$100,000 is too much. I am satisfied that there is great danger in that Territory, under its present government, that the ecclesiastical institutions which prevail there will ultimately become the owners in perpetuity of all the valuable land in that Territory, and so afford a nucleus for the permanence of their general institutions unless a stop be put to it by act of Congress.

I have now stated the provisions of the amendment as proposed

by the committee. The first section of the bill is altered so as to punish the crime of bigamy, but leaving the question of cohabitation or mere adultery apart from the crime of bigamy, without reference to any action of Congress. The second section is exactly the same as the section in the House bill. The third section is a new one, the object of which is to operate in the nature of a mortmain law, to prevent the entire property of that Territory being accumulated in perpetuity in the hands of a species of theocratic institutions.

The amendment was agreed to.

MR. HALE. I shall probably vote for the bill; but I should like to know from the chairman of the committee if its provisions are not inconsistent with—

MR. BAYARD. I move to strike out “\$100,000” and insert “\$50,000,” in the third section.

MR. HALE. I will wait until that is decided.

MR. BAYARD. I make that motion.

THE VICE PRESIDENT. The Senator's motion is not now in order, the amendment of the committee having been adopted. It will be in order when the bill shall have been reported to the Senate.

MR. HALE. I was only going to say that I had been looking at a decision of the Supreme Court in which the rights of Congress over the Territories are examined with some care, and it occurred to me that possibly the provisions of this bill might be inconsistent with some of the doctrines and dogmas of that decision. I refer to a case decided in the Supreme Court at the December term of 1856, entitled, “Dred Scott vs. Sandford,” and the doctrine was pretty thoroughly gone over in that decision as to how far the powers of Congress extended over the Territories. It strikes me that by analogy this bill infringes upon that decision, for I remember that one of the exponents of the true faith on this floor used to illustrate this dogma at least as often as once a month by saying that the same law prevailed as to the regulation of the relations of husband and wife, parent and child, and master and servant. I think at least once a

month for years that was proclaimed to be the law. If the National Legislature have no more power over the relations of husband and wife—and that seems to be the one touched here—than over master and slave, it seems to me that if we mean to maintain that respect which is due to so august a tribunal as the Supreme Court of the United States, we ought to read the Dred Scott decision over again, and see if we are not in danger of running counter to it. It strikes me decidedly that we are; and at this time when there is so much necessity for invoking all the reverence there is in the country for the tribunals of the country, it seems to me we ought to tread delicately when we trench upon things that have been so solemnly decided by the Supreme Court as this has. But, as the gentleman who reports the bill is a member of the Judiciary Committee, if it is clearly his opinion that we can pass this bill without trenching upon the doctrine of the Dred Scott decision, I shall interpose no objection.

MR. BAYARD. I will not be drawn into any argument. It is sufficient to say that I have read the decision to which the honorable Senator alludes, I think with some care, and in my judgment this bill is entirely within its principles as well as within the decision itself. I cannot see the contrariety. I shall not enter into the argument now. To me it is very palpable that the bill is within the power of Congress and is necessary legislation.

The bill was reported to the Senate.

MR. BAYARD. I propose now in the fifth line of the third section to strike out "one hundred" and insert "fifty," so as to make the limitation of real estate held by an ecclesiastical corporation, \$50,000.

The amendment to the amendment was agreed to.

The amendment made as in the Committee of the Whole, as amended, was concurred in.

MR. McDUGALL. It may not be considered a very judicious thing to object to this measure here, but I feel called upon to do it. There is no Senator, I think, who objects more strongly than I do to the

vicious practice that obtains in the Territory of Utah; but I think we have just at this time trouble enough on our hands without invoking further trouble. We have had our communication with California cut off by the Indians on the line of communication. We have already had a Utah war that cost the Government a large amount of money. We are to have a controversy with them as to their admission as a State. They are clamoring for that now. In my judgment, no particular good is to be accomplished by the passage of this bill at present. When the time does come that our communication across the continent is complete, then we can take jurisdiction where we have power, and can employ power for the purpose of correcting these abuses. I suggest to gentlemen, in the first place, that they cut off most likely the communication across the continent to our possessions on the Pacific by a measure of legislation of this kind, which will be well calculated to invite, certainly will invite, great hostility, and interfere with the general interests of the country. It will cost the Government a large amount if communication is interfered with, and do no substantial good. I do not think the measure at this time is well advised. It is understood its provisions will be a dead letter upon our statute-book. Its provisions will be either ignored or avoided. If Senators will look the question fairly in the face, and consider how important it is that we should have no difficulties now on our western frontier between us and the Pacific, how poorly we can afford to go into the expenditure of a large amount of money to overcome difficulties that will be threatened on the passage of this bill, and then consider the little amount of substantial good which will result from it, I think they will hesitate before they pass it. The impolicy of its present passage will cause my colleague and self, after consultation, to vote against the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

MR. HOWARD. I ask for the yeas and nays on the passage of the bill.

MR. SUMNER. I was about to make the same request.

The yeas and nays were ordered, and being taken, resulted—yeas 37, nays 2: as follows:

Yeas—Messrs. Anthony, Bayard, Browning, Chandler, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Rice, Saulsbury, Sherman, Simmons, Stark, Sumner, Ten Eyck, Thomson, Trumbull, Wade, Wilkenson, Willey, Wilmot, Wilson of Massachusetts, and Wright—37.

Nays—Messrs. Latham and McDougall*—2.

So the bill was passed.

The title was amended so as to read, "A bill to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah."

In the House of Representatives, June 5, 1862—

MR. MORRILL, of Vermont. I ask the unanimous consent of the House to take up and consider at this time the amendments of the Senate to an act (H. R. No. 391.)

Objection was made.

MR. MOORHEAD. I ask the unanimous consent of the House to introduce a resolution of inquiry.

MR. WICKLIFFE. I object.

MR. BINGHAM. I call for the regular order of business.

In the House of Representatives, June 17, 1862—

The Speaker laid before the House bill of House (No. 391)—reported from the Senate with amendments.

* Senator Latham, on his way to Washington in November, 1862, passed through Salt Lake City, and by resolution of its council was tendered the hospitality of the city during his sojourn here. The invitation was presented by Councilors Little, Felt and Groo, a committee appointed for that purpose. The Senator returned his thanks for the courtesy, which, owing to his short stay, he was unable to accept. The offer was in recognition of the minority vote of Senators Latham and McDougall against the anti-polygamy bill, and of other courtesies rendered by the former to Utah's representatives at the capital.

THE SPEAKER. The bill and amendments will be referred to the Committee on Territories.

MR. MORRILL, of Vermont. I object to these bills being taken up for reference. There is no necessity for the reference of this bill.

THE SPEAKER. The order has been made.

MR. MORRILL, of Vermont. I move to reconsider the vote by which the order was made; and on the motion I demand tellers.

Tellers were ordered; and Messrs. Morrill of Vermont, and Olin were appointed.

The tellers reported—ayes sixty-eight, noes not counted.

So the motion to reconsider was agreed to.

The amendments were read.

MR. PHELPS, of Missouri. I think, Mr. Speaker, that this is rather hasty legislation. I should not be at all surprised if it were ascertained that the Catholic Church in the city of Santa Fe owns real estate to the amount of more than fifty thousand dollars under grants made by the Mexican Government. I was about to submit a motion that the bill be referred to the Committee on the Judiciary. I recollect very well that, in the hurry and haste of legislation, a bill passed the House to prohibit polygamy in the Territories, which indirectly sanctioned it within the District of Columbia, or inflicted no punishment for it here. I desire that this matter shall be critically examined, and therefore I think it should be referred to the Judiciary Committee.

MR. MORRILL, of Vermont. I am perfectly willing that the bill shall be passed over informally until the gentleman from Missouri can inform himself on the subject.

MR. PHELPS, of Missouri. I have no objection to letting the bill remain on the Speaker's table. Let the amendments be printed, and let us know what we are legislating upon.

MR. MORRILL, of Vermont. I have no objection to that.

It was so ordered.

In the House of Representatives, June 24, 1862—

An act, (H. R. No. 391) to punish the practice of polygamy in

the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah, with Senate amendments thereon.

MR. MORRILL, of Vermont. I desire to say, in reference to the objection made by the gentleman from Missouri [Mr. Phelps] last week, to one of the provisions of this bill, that I understand the Roman Catholic church at Santa Fe has property exceeding \$50,000 in amount, but that it is protected under treaty stipulations. His objection, therefore, is not valid. I now move the previous question on concurring with the Senate amendments.

The previous question was seconded, and the main question ordered.

The amendments were read.

The amendments of the Senate were concurred in.

Mr. Morrill, of Vermont, moved to reconsider the vote by which the amendments were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

In the House of Representatives, June 30, 1862—

Mr. Granger, from the Committee on Enrolled Bills, reported as a truly enrolled bill an act (H. R. 391) to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah.

It has often been stated that the anti-polygamy act of 1862, became law without the signature of President Lincoln. This is an error, as the following paragraph of the record already quoted from will testify:

“In the House of Representatives, July 2, 1862—

“A message was received from the President of the United States, informing the House that he had approved and signed an act (H. R. 391) to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly of the

Territory of Utah." The full text of this enactment was as follows :

Be it enacted, etc.:

That every person having a husband or wife living, who shall marry any other person, whether married or single, in a Territory of the United States, or other place over which the United States have exclusive jurisdiction, shall, except in the cases specified in the proviso to this section, be adjudged guilty of bigamy, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, and by imprisonment for a term not exceeding five years. *Provided nevertheless*, That this section shall not extend to any person by reason of any former marriage whose husband or wife by such marriage shall have been absent for five successive years without being known to such person within that time to be living; nor to any person by reason of any former marriage which shall have been dissolved by the decree of a competent court; nor to any person by reason of any former marriage which shall have been annulled or pronounced void by the sentence or decree of a competent court on the ground of nullity of the marriage contract.

And be it further enacted :

SEC. 2. That the following ordinance of the provisional government of the State of Deseret, so called, namely : "An ordinance incorporating the Church of Jesus Christ of Latter-day Saints, passed February eight, in the year eighteen hundred and fifty-one, and adopted, re-enacted, and made valid by the Governor and Legislative Assembly of the Territory of Utah, by an act passed January nineteen, in the year eighteen hundred and fifty-five, entitled "An act in relation to the compilation and revision of the laws and resolutions in force in Utah Territory, their publication, and distribution," and all other acts and parts of acts heretofore passed by the said Legislative Assembly of the Territory of Utah, which establish, support, maintain, shield, or countenance polygamy, be, and the same hereby are, disapproved and annulled : *Provided*, That this act shall be so limited and construed as not to affect or interfere with the right 'of property legally acquired under the ordinance heretofore mentioned, nor with the right 'to worship God according to the dictates of conscience,' but only to annul all acts and laws which establish, maintain, protect or countenance the practice of polygamy, evasively called spiritual marriage, however disguised by legal or ecclesiastical solemnities, sacraments, ceremonies, consecrations, or other contrivances.

And be it further enacted :

SEC. 3. That it shall not be lawful for any corporation or association for religious or charitable purposes to acquire or hold real estate in any Territory of the United States during the existence of the territorial government of a greater value than fifty thousand dollars; and all real estate acquired or held by any such corporation or association contrary to the provisions of this act shall be forfeited and escheat to the United States : *Provided*, That existing vested rights in real estate shall not be impaired by the provisions of this section. *

* See Sec. 5352 R. S. U. S.

Thus was passed the first direct Congressional enactment against the Mormon Church. As will be seen, the anti-polygamy act of 1862 remained, as predicted by Senator McDougall, a dead letter upon the statute books of the nation; only one conviction being secured under it in twenty years, and that of a man who, for test-case purposes, furnished the evidence which convicted him. That man was George Reynolds, of Salt Lake City. This law, however, was the forerunner of other acts of Congress, also directed against Mormonism, which have wrought, in these later days, great changes in Utah.

Two days after the announcement of the approval of the anti-polygamy act, Utah gave another grand and patriotic celebration of the nation's birthday, and on the 24th of the same month Pioneer Day was observed in an equally imposing manner throughout the Territory. Among the notables present at Salt Lake City on the latter occasion was Governor Stephen S. Harding, Utah's new executive; also Judges Charles B. Waite and Thomas J. Drake, who, with Chief Justice Kinney, now composed the supreme bench of the Territory. Governor Harding, who, like his predecessor, Mr. Dawson, was from Indiana, had arrived from the east on the 7th of July, and Judges Waite and Drake four days later. Other prominent Gentiles who joined with the Mormons this year in celebrating the advent of the Pioneers were Secretary Fuller, Indian Superintendent Doty, James Street, Esq., of the Pacific Telegraph Company, Mr. Fred Cook, assistant treasurer of the Overland Mail Company, and H. S. Rumfield, Esq. After the usual pageant the multitude gathered under the shade of the Bowery. A feature of the occasion was the first public appearance of the Deseret Musical Association, under the leadership of the local pioneer of the Tonic Sol-Fa method, Mr. David O. Calder. Speeches were made by Professor Karl G. Maeser, Messrs. Isaac Groo and William Clayton, Governor Harding and President Young. The speech of the new Governor, who was introduced by the President, and greeted with cheers by the people as he arose to address them, was as follows:

FELLOW-CITIZENS—And in that word I mean all of you, of all ages, sexes and conditions—I am pleased at being with you today, and of being introduced in the agreeable manner you have just witnessed. I have desired the opportunity of looking upon such a vast concourse of the people of Utah, at one time; and, as such an occasion now presents itself, it is right and proper that I should say a few things to you.

You have doubtless been informed before now that the President of the United States, by and with the advice and consent of the Senate, has appointed me to the office of Governor of this Territory. I have come amongst you to enter upon the discharge of the high and important duties that have devolved upon me, and while I greatly distrust my own ability, yet I cannot but hope that, with your assistance, I shall be able to discharge those duties to your satisfaction, and with strict fidelity to the Government, whose servant I am.

If I know my own heart, I come amongst you a messenger of peace and good will. I have no wrongs—either real or imaginary—to complain of, and no religious prejudices to overcome. [Applause.] Believing, as I do, that the Constitution of the United States secures to every citizen the right to worship God according to the dictates of his own conscience; and holding, further, that the Constitution itself is dependent for its support and maintenance on the preservation of that sacred right, it follows, as a corollary, that under no pretext whatever will I consent to its violation in this particular, by any official act of mine, whilst Governor of this Territory. [Tremendous applause.]

In a Government like ours, based upon the freest exercise of conscience, religion is a matter between man and his Maker, and not between man and the Government, and for the honest exercise of duties inculcated by his religious faith and conscience, so long as he does not infringe upon the rights of others, equally as sacred as his own, he is not responsible to any human tribunal, other than that which is found in the universal judgment of mankind. [Hear, hear.] If the right of conscience of the minority depended upon the will of the majority, then, in a government like ours, that same minority in a future day might control the conscience of the majority of today—when by superior cunning and *finesse* a political canvass had been won in its favor, and thus alternately would it be in the power of either when elevated to the seat of the law-makers to impose a despotism upon the conscience of its adversary only equaled by the “Index Expurgatoris,” against which the Protestant world so justly complained. [Applause.]

It has long been a maxim and accepted as true by our people, “That it is safe to tolerate error, so long as truth is left free to combat it.” Who are in error, and in what that error consists in matters of speculative theology, are questions only cognizable at the bar of heaven. It has been the fate of propagandists of new ideas and religious dogmas, without regard to their truth or falsity, to meet with opposition, often ending in the most cruel persecution. Hoary-headed error, claiming for itself the immunity of ages, glares with jaundiced eyes upon all new ideas, which refuse to pay to it its accustomed homage. I know of no law of the human mind that makes this age an exception to the rule. Nevertheless, he who founds his ideas and theories on truth, correlative with his physical and spiritual being, and consequently in harmony with the law of nature, must ultimately succeed; whilst he who builds upon falsehood must share the fate of him who built his house upon the sand. This is not only a declaration of divine truth, but is in accordance with all human experience. The great highway of man’s civilization and progress is

strewn with the wrecks of a thousand systems—once the hope of their founders and challenging the confidence of mankind [hear, hear]. But I must limit this dissertation, and will sum up in a few words what I have intended to say on this branch of the subject.

The founders of our Constitution fully comprehended these ideas which I have so briefly glanced at, and they clothed the citizen with absolute immunity in the exercise of his rights of conscience, and threw the protecting shield of the Constitution around him, and over him, in all the diverging paths that lead the enquirer in his researches after truth in the dim unknown of speculative theology.

But I must not detain you, I leave this part of the subject, and address myself to the occasion that has called together this mighty multitude.

On every hand I behold a miracle of labor. Fifteen years ago today, and your Pioneers, by their heroism and devotion to a principle, consecrated this valley to a civilization wonderful "to the stranger within your gates," and in the developments of which a new era will be stamped not only upon the history of your own country, but on the world. You have indeed "caused the desert to blossom as the rose." Waving fields of gold; gardens containing all that is necessary for the comfort of civilized man; "shrubberies that a Shenstone might have envied;" orchards bending beneath the promise of most luscious fruit,—now beautify the fields which your industry has filled with new life, and where but fifteen years ago the genius of solitude, from yon snow-capped peak, stood marking on her rocky tablets the centuries of desolation and death that rested on these same fields, since the upheaval force of nature formed the mighty zone that separates the two oceans that wash the shores of our continent.

Wonderful progress! wonderful people! If you shall be content, as I doubt not you will be, to enjoy the blessings with which you are surrounded, and abide your time, and enjoy your privileges under a benign and just government, "*Imperium in Imperio*" and not attempt to reverse this order of things absolutely necessary under our form of government; and above all things, if you will act up to the line of your duty contained in that one grand article of your faith, "*We believe in being honest, true, chaste, temperate, benevolent, virtuous and upright, and in doing good to all men,*" you cannot fail to obtain that ultimate success [applause] which is the great desideratum of your hopes. Honestly conform in the standard of your creed and faith, and though you may for a time be "cast down," you cannot be destroyed [great applause]; for the power of the Eternal One will be in your midst, though no mortal eye may behold the "pillar of cloud and of fire" [applause]. As the Great Master of sculpture gathered and combined all the perfections of the human face into one divine model, so you, in that one grand article, have bound into one golden sheaf, all the Christian virtues that underlie our civilization.

But this must suffice. I, perhaps, have said more than I ought to have said, and yet I cannot see how I could have said less. If my words shall be as kindly received by you as they have been honestly and frankly uttered by me, and we will act accordingly, my mission among you cannot fail of being alike profitable to you and to the government that I represent [hear, hear].

This is the hour when your loyalty to our common country is most acceptable and grateful to the heart of every patriot. Be but content and abide your time, and your

reward will be as great as it is certain. Duty to ourselves, to our God and our country calls upon us to cast aside every prejudice and to rally around the Constitution and the flag of our fathers, and if need be, to baptize them anew with our own blood. The Constitution will not perish, that flag will not trail in the dust, but they will both come out of the present fiery ordeal, redeemed, regenerated, and disenthralled, by the genius of universal liberty and justice [great applause].

These were fair words indeed; but the Governor's subsequent course, as will yet appear, was anything but consistent with his friendly professions so eloquently uttered.

Early in October of this year, Colonel Patrick Edward Connor, who became the founder of Camp Douglas, at the head of several hundred troops—California and Nevada volunteers—entered Utah from the west. As early as the date of the government's call on Brigham Young to raise a company of men for a ninety days' campaign protecting the mail route on the plains, Colonel Connor and his regiment had received orders to march to this Territory. In the outset it was understood that to them was to be entrusted that irregular but hazardous service. It was not for this purpose, however, that the volunteers enlisted, nor was it in expectation of such orders that the gallant Connor, who had been a dashing captain in the Mexican war, placed his sword at his country's service. When the news of the attack on Sumter reached the golden slopes of California, Captain Connor's prompt and patriotic offer caused his selection as Colonel of the Third California Infantry by the Governor of the State. He at once set about recruiting his companies, and was in earnest and impatient expectation of being ordered to the front. The early spring of 1862 brought him the disappointing order to move to Utah; and if that destination was a matter of chagrin to himself and his command, it became still more a humiliation to them when they learned that their duties here, while ostensibly to protect the mail routes and keep the Indians in check, were really to watch and overawe the Mormon people, the loyalty of whose leaders the Secretary of War had discovered some pretext for doubting. This unnecessary and undignified service was not less galling to the Californians than insulting to the citizens of

Utah; it was at least a niggardly recognition of the quick enthusiasm with which the volunteers had responded to the Union's need. For months prior to the arrival of the troops, there was full knowledge in Utah that they were ordered hither, but no decisive information as to the purpose of their coming. The *Deseret News* during the spring of 1862 kept its readers informed regarding the progress of the preparations, and in June declared with some sarcasm that "the pompous procession is expected to consist of one thousand infantry, five hundred cavalry, a field battery, one hundred and fifty contractor's wagons and seventy army wagons, besides the officers' ambulances and carriages for their families who accompany them. To complete the arrangement, and render the scene superbly grand, several hundred head of cattle are to be driven in the rear of the procession. The Indians will of course be tremendously scared, and horse thieves, gamblers, and other pests of the community wondrously attracted by the gigantic demonstration."

It was not until July, 1862, that the command set out upon its march. It consisted of the Third California Infantry and part of the Second California Cavalry, and was afterwards joined by a few companies from Nevada. All told, the force numbered a little more than seven hundred men. At Fort Churchill, under date of August 6th, Colonel Connor issued his first order, assuming command of the military district of Utah, comprising the Territories of Utah and Nevada. This proclamation in its wording indicated that the commander expected to find traitors, and it expresses a stern purpose to mete out punishment to those who were guilty of uttering treasonable sentiments. On the 9th of September Colonel Conner arrived at Salt Lake City, having left his troops encamped in Ruby Valley. He remained only a few days, but in his stroll about the city was not slow to observe that an available and commanding site for a military post lay to the east on the bench overlooking the whole valley. Returning to Ruby Valley he found his officers and men burning with impatience to go to the seat of war, and on September 24th he endorsed their demand in a despatch to the General-in-Chief of the

army, in which he said his men had been in service a year, had marched six hundred miles, were well-officered and thoroughly drilled, and were of no service on the mail route as there was cavalry enough in the Utah district to protect it; the men authorized the pay-master to withhold \$30,000 of pay then due if the government would only order them east to fight traitors, the end for which they enlisted; and if the above sum was not sufficient, they proffered to pay their own passage from San Francisco to Panama. A correspondent of the San Francisco *Bulletin*, writing from the camp that same day, still more pointedly expressed the popular feeling. He said: "Brigham Young offers to protect the entire [overland mail] line with one hundred men. Why we were sent here is a mystery. It could not be to keep Mormondom in order, for Brigham can thoroughly annihilate us with the 5,000 to 25,000 frontiersmen always at his command."

Nevertheless the Volunteers continued their march eastward. Two companies under Major McGarry had been detached a few days before to pursue and punish some refractory Indians on the Humboldt. On the 17th of October the main body reached Fort Crittenden, formerly Camp Floyd. Certain parties who had purchased at a low figure the expensive improvements there, had hoped that the Government would desire to buy back again at a high price. They were therefore grievously disappointed at Colonel Connor's determination to establish himself nearer the Territorial headquarters. Next day the troops marched to what they called the Jordan Springs, near the point of the mountain south of Salt Lake City and twenty miles north of Fort Crittenden. From that point they could see the city, and now their ears were saluted with the news that armed resistance against their entry into the capital would be encountered, and that they would not be allowed to cross the Jordan. For the moment the belligerent Californians thought there was a chance for them to smell gunpowder, and in the camp there were grim congratulations, since a fight, if fight it must be, would be as welcome at the Jordan as at the Potomac. Colonel Connor himself was

misled by the rumors which reached him, and is said to have replied to the imaginary threat as to resistance, that he would cross the Jordan "though hell yawned beneath it." There was some dramatic inspection of ammunition and arms, and a general furbishing up of accoutrements. The gun caissons were furnished with an extra supply of cannister, and sixty rounds were given to each soldier. But cooler heads in the camp were able to distinguish the fancied resistance from the actual motive for such a rumor. The natural excitement in the city caused by the news that the troops did not intend remaining at Crittenden had been magnified by those whose purpose of gain was thus foiled, into a threatening display which they hoped might scare the commander into entertaining their proposition of sale. The only result of their maladroit endeavors was to render themselves and those who gave credence to them ridiculous. Connor was not the man to be intimidated by a rumor, nor were the Mormons, wounded though they may have been at the reflection which the whole expedition cast upon their patriotism, so recreant to sentiments of prudence and loyalty as to offer resistance to a peaceably disposed United States force.

Sunday the command moved northward along the west side of the river to the bridge at Little Cottonwood, and Monday forenoon, the 20th, they entered the city with bands playing, colors flying, and confidence and animation beaming from every rank. Far from a hostile demonstration, they were accorded a reception distinguished principally for the universal curiosity of the people. Crowds congregated at every crossing and the movement of the troops was watched with undisguised interest. Though the Governor and Judges met the column some distance out, formal greetings were reserved until the executive mansion was reached, where the troops were drawn up in two lines, and the Governor's salute was given. Colonel Connor introduced Governor Harding, who, rising in his buggy, delivered a warm and patriotic address. He expressed some disappointment at their having come to Salt Lake City; but declared with emphasis that the individual, if any such there were, who supposed the Govern-

ment had sent them in order that mischief might come of it, knew not the spirit of the Government nor the spirit of the officials who represented it in this Territory. "I believe," he continued, "the people you have now come amongst will not disturb you if you do not disturb them in their public rights and in the honor and peace of their homes;" and he assured them in conclusion that should they disregard the discipline that is their only safety, he would not be with them, but that in conforming to their duty they would have his countenance and support even to the death. The soldiers then resumed their march through the city, and proceeding two miles and a half eastward, to the bench between Red Butte and Emigration Canyons, went into camp. Two days later Colonel Connor located and began the construction of quarters on the site which has ever since been known as Camp or Fort Douglas.

The men at once set to work to construct rude habitations for the winter and they were soon housed in "dug-outs," which gave them good shelter against the snows and frost, but were an aggravation during rains and thaws. Occasional sorties against the Indians, who, especially between the Bear and Humboldt rivers, were committing great depredations upon belated trains of overland emigration, varied somewhat the monotony of camp life. One sensational episode was an expedition undertaken in the latter part of November by a company of sixty men under Major McGarry to recover a white boy held in captivity by a band of Shoshone Indians in the northern part of Cache Valley. A sharp skirmish took place between the troops and the red-skins, after which the captive was delivered over and brought to Salt Lake City. This engagement occurred not far from Franklin and almost on the site of the subsequent Bear River battle, by far the most important Indian fight had by the volunteers.

On the 19th of January, 1863, a miner named William Bevins made affidavit before Chief Justice Kinney to the effect that about ten days previously himself and party, numbering eight men, who were on their way to the Grasshopper gold mines in Dakota, were

attacked in Cache Valley by Indians and one of their number killed; also that another party of ten miners en route to Salt Lake City had been assaulted and murdered by the same Indians in the same locality. Upon this information warrants for the arrest of three of the chiefs were issued and placed in the hands of the United States Marshal, Isaac L. Gibbs, who, realizing that resistance would be offered, laid the matter before Colonel Connor. Three days later a company of infantry and two howitzers, started for the camp of the hostiles; and on Sunday evening, the 25th, four companies of cavalry under command of Colonel Connor himself, followed. Marshal Gibbs accompanied the expedition, though with what purpose is not clear, as the mission and intention of the troops was to summarily punish, and not merely arrest, the savages for the various crimes and depredations of which they were accused. Colonel Connor in his report says he informed the Marshal that all arrangements for the expedition were already made; and that the civil process had little to do with it is evident from the Colonel's further remark: "Being satisfied that they [the Indians] were part of the same band who had been murdering emigrants on the overland mail route for the past fifteen years and the principal actors and leaders in the horrid massacre of the past summer, I determined, although the weather was unfavorable to an expedition, to chastise them if possible."

Tuesday night, the 27th, the cavalry force overtook the infantry at Mendon, Cache County, but the infantry at once resumed the march and were again overtaken during the following night at Franklin, twelve miles from the Indian encampment. At 3 o'clock on the morning of the 29th, the infantry were in motion, and an hour later the cavalry set out, overtaking and passing their plodding comrades about four miles south of the river. The battle began at 6 o'clock, the Indians having detected the effort of the mounted troops to surround them, and defeating it by at once engaging them. The position of the savages was one of great natural strength, and they had improved it with considerable ingenuity. A narrow, dry

ravine with steep, rocky sides, sheltered them from the fire of the soldiers, who, advancing along the level table-land through which the gorge ran, were exposed to the murderous volleys of the concealed foe. Steps cut in the banks enabled the latter to ascend and descend as necessity required, and artificial copses of willow served as additional defenses where the ravine's course left an exposed point. The battle opened inauspiciously for the troops who quickly saw the disadvantage at which they were placed. Several fell, killed or wounded, at the first fire; the Indians gleefully noting the fact, and defying the survivors to "come on." Meantime the infantry, whose advance had been checked by the swift, icy waters of Bear River, until horses furnished by the cavalry had assisted them over the stream, had joined in the engagement; and a successful flanking movement soon afterwards enabled the troops to pour an enfilading fire into the enemy's camp. This was the beginning of the end; for though the savages fought with fury, they were now at a disadvantage and were met by a line of soldiers at either end of the ravine. As they moved toward the lower end, the Colonel ordered his troops thither, disposing the cavalry so as to cut off escape. One company stood at the mouth of the gorge and visited terrible execution upon the enemy; at a single spot forty-eight corpses were afterwards counted. By 10 o'clock the savages were completely routed and the slaughter was ended. Two hundred and twenty-four warriors, it is claimed, were found dead upon the field—but this number was doubtless exaggerated. Among them were the chiefs Bear Hunter, Sagwitch, and Lehi, the first, it is said, falling into the fire at which he was moulding bullets, and being literally roasted. Sanpitch, one of the chiefs named in Judge Kinney's warrant, made his escape, as did also Pocatello and probably fifty braves. The fighting strength of the Indians was estimated to be over three hundred; one hundred and sixty squaws and children fell into the hands of the victors; one hundred and seventy-five ponies were captured in the camp; seventy lodges were burned; and of a large quantity of grain, implements and other property believed to have

been stolen from emigrants, that which was not necessary for the captives was either destroyed or carried to Camp Douglas and sold.

On his side Colonel Connor lost fourteen men, and forty-nine were wounded during the engagement. Eight died within ten days. The force in the outset numbered about three hundred men, but not more than two hundred were in the fight. The remainder were either teamsters or men incapacitated by frozen feet. The hardships of the journey were extreme, the snow being deep and the cold intense. The casualties of this latter class were seventy-nine, and the commanding officer in his report expressed the fear that many of the victims would be crippled for life.*

The dead and wounded arrived at Camp Douglas on the night of the 2nd of February, and on Wednesday the 4th the survivors were again at their quarters. Next day, the 5th, fifteen of the dead were buried, with military honors, theirs being the consecrating dust of the beautiful little cemetery at the Fort. On the 6th Lieutenant Darwin Chase, who died of his wounds on the night of the 4th at Farmington, was buried with masonic and martial honors.† At dress parade on Sunday, the 8th, the Colonel's complimentary order was read, and that same day the two who were the last to die of their wounds were placed by the side of their deceased comrades.

If the battle in its latest stage had possessed less the elements of a massacre, Colonel Connor and his command would have been more generally praised by some people; but perhaps it would not then have proved a lesson so well remembered by the savages. As it was, it completely broke the power of the Indians, and conveyed to them a warning that it has never been necessary to repeat. In a letter to General Wright, commanding the Department of the Pacific, General-in-Chief Halleck wrote from Washington under date of March 29th,

* Colonel Connor employed as his guide on this expedition the experienced mountaineer, O. P. Rockwell, who rendered the command very efficient service, without which, it is believed, many more of the soldiers would have perished by being frozen. This fact accounts for the friendly feeling that Connor always entertained toward Rockwell.

† Lieutenant Chase had once been a Mormon Elder.

highly praising the courage and discretion of the Colonel and his brave Californians; and in a dispatch of the same date to Colonel Connor, he and his command were congratulated on their heroic conduct and brilliant victory, and the commander was notified that he was that day appointed a brigadier general. The dispatch was not received at Camp Douglas until late at night, but the musicians tuned up and made the post merry, and the artillerymen awoke the midnight echoes with a salute of eleven guns.

CHAPTER IV.

1862-1863.

GOVERNOR HARDING'S CHANGE OF HEART—AIDED BY JUDGES WAITE AND DRAKE, HE SEEKS TO INSPIRE MORE ANTI-MORMON LEGISLATION—THE CITIZENS PROTEST AGAINST THE CONDUCT OF THE THREE OFFICIALS, AND ASK PRESIDENT LINCOLN TO REMOVE THEM—BRIGHAM YOUNG ARRESTED FOR POLYGAMY—BITTER FEELING BETWEEN CIVILIANS AND SOLDIERS—TRIAL AND CONVICTION OF THE MORRISITES—GOVERNOR HARDING PARDONS THEM—AN INDIGNANT GRAND JURY—GOVERNOR HARDING REMOVED—CHIEF JUSTICE KINNEY AND SECRETARY FULLER SUPERSEDED—JAMES D. DOTY THE NEW EXECUTIVE—JUDGE KINNEY SENT TO CONGRESS.

SOON after the arrival of the troops under Colonel Connor and the planting of United States cannon on the bench east of and overlooking Salt Lake City, Governor Harding began giving evidence of a change of heart regarding the Mormon people, in whose praises he had waxed so eloquent but a few short months before. That his first professions, so friendly to the Saints, were altogether hypocritical, and that he really hated the people whom he eulogized, and was only awaiting the backing which the advent of the military now gave him before revealing the true inwardness of his soul toward those whom he had been sent to govern, is hardly probable. That he was sincere in saying: "I come amongst you a messenger of peace and good will," with "no wrongs, either real or imaginary, to complain of, and no religious prejudices to overcome," few if any will question. But that something occurred soon afterward to turn him against the vast majority of the citizens and cause him to take a stand diametrically opposite to that which he at first assumed, is certain. That this something, whatever it was, did not antedate the coming of Colonel Connor's command, is evident from the tenor of the Governor's remarks to the volunteers on their arrival at Salt Lake City—remarks that could only be construed as favorable to the people. It is not improbable that Colonel Connor

himself, who was a Mormon-hater and made no pretensions to the contrary, was the cause of Harding's defection from his former friendly attitude. Steeped in prejudice against the Saints and regarding them as "traitorous and disloyal to the core," and that, too, before he had even set foot within the Territory, it is very possible that the warlike Colonel, angry at being assigned the distasteful task of "watching Brigham Young" when he and his comrades had "enlisted to fight traitors," took early occasion to engraft his own views upon the weaker mind of the pliant Executive, as well as upon Judges Waite and Drake, who were hand and glove with Harding in all his anti-Mormon proceedings.

There are those who claim that the Mormons gave great offense to the Governor by failing to observe January 1st, 1863, as a day of thanksgiving and praise, pursuant to a proclamation issued by His Excellency on the 2nd of the previous December, and that this was the reason why he uncorked the vials of unfriendly criticism and poured out the contents so unsparingly upon them. But the fact that Harding opened fire upon the people of Utah by attacking their representatives in the Legislature on the 10th of December, 1862, only eight days after the issuance of the proclamation in question, and fully three weeks before the day fixed for the observance of his decree, renders that ground utterly untenable.

The Legislative session referred to convened at Salt Lake City on the 8th of December. Daniel H. Wells was President of the Council and Orson Pratt Speaker of the House. Two days later Governor Harding delivered his message, a very lengthy though well worded document—for the Governor was an able rhetorician—the salient features of which we will here reproduce. After again complimenting the people for the "miracle of labor" they had performed in colonizing and redeeming the desert, His Excellency proceeded to discuss the great topic of the Civil War, during which he eulogized the policy and acts of President Lincoln. He then touched upon the subject of the admission of the State of Deseret into the Union, and said:

After the adjournment of the last session of this body, in accordance with a joint resolution emanating therefrom, the people of this Territory proceeded to elect delegates to form a Constitution for the State of Deseret; and after such Constitution was formed and adopted, the people proceeded to elect a Governor, Lieutenant-Governor, and other officers, amongst which was a representative to Congress; and also two United States Senators were elected. One of the gentlemen elected as a United States Senator proceeded to Washington City and caused to be laid before Congress the object of his mission. He was treated with that courtesy to which a gentleman on so grave a mission should ever be entitled. He was permitted to occupy a seat within the bar of the Senate chamber, and was otherwise received with the kindest consideration. In consequence of the lateness of the session, it could not be expected that more would have been done than was in the premises. The Constitution and other documents were referred to the appropriate committee, where the matter now rests. That the question will be taken up at the approaching session of Congress and acted on in that spirit of fairness that becomes a great and generous nation, I have no doubt.

I am sorry to say that since my sojourn amongst you I have heard no sentiments, either publicly or privately expressed, that would lead me to believe that much sympathy is felt by any considerable number of your people in favor of the Government of the United States, now struggling for its very existence "in the valley and shadow" through which it has been called to pass. If I am mistaken in this opinion no one will rejoice more than myself in acknowledging my error. I would, in the name of my bleeding country, that you, as the representatives of public sentiment here, would speedily pass such a resolution as will extort from me, if necessary, a public acknowledgment of my error, if error I have committed.

I have said this in no unkind spirit; I would much rather learn that the fault has been on my part and not on yours.

I regret also to say, I have found in conversing with many gentlemen of social and political influence, that because the question of the admission of this Territory into the Union was temporarily postponed, distrust is entertained in regard to the friendly disposition of the Federal Government, and expressions have been used amounting to inuendoes at least, as to what the result might be in case the admission should be rejected or postponed. Every such manifestation of spirit on the part of the objectors is, in my opinion, not only unbecoming, but is based on an entire misconception of the rights of the applicant, and the duties of the representatives of the States composing the Union.

* * * * *

The admission of a new State into the Union is, or ought to be, attended with gravest consideration. For instance, suppose the population of the Territory is known to fall far short of the number that entitles the present members of the Union to a representation in Congress, should it be thought hard or strange that objection should be made? Is it thought a hardship that the people of the State of New York, comprising 4,000,000, are not willing that their voices should be silenced in the Senate of the United States by 60,000, or 80,000 in one of the Territories? I am aware that precedents may be cited in some few instances, where these reasons have been overlooked and disregarded, but that fact does not affect the question under consideration. The reasons which controlled Congress at the time referred to were never good and sound ones, but were found in the

wishes and ambition of political parties, anxious to control the vote in the electoral college, for chief magistrate. If the precedent was a bad one, the sooner it is changed the better for all parties concerned.

In connection with this subject, I respectfully recommend the propriety of passing an act whereby a correct census may be taken of the population of the Territory. If it shall be found that the population is sufficient to entitle it to one representative in Congress, on the present basis, I shall be most happy in aiding you to the extent of my humble abilities, in forwarding any movements having for their end the admission of the Territory into the Union as a State.

It would be disingenuous if I were not to advert to a question, though seemingly it has nothing to do with the premises, is yet one of vast importance to you as a people, and which cannot be ignored—I mean that institution which is not only commended but encouraged by you, and which, to say the least of it, is an anomaly throughout Christendom—I mean polygamy, or, if you please, plural wives. In approaching this delicate subject, I desire to do so in no offensive manner or unkind spirit; yet the institution, founded upon no written statute of your Territory, but upon custom alone exists. It is a patent fact, and your own public teachers, by speech and pamphlet, on many occasions, have challenged its investigation at the bar of Christendom. I will not on this occasion be drawn into a discussion either of its morality or its Bible authority; I will neither affirm nor deny any one of the main proceedings on which it rests. That there is seeming authority for its practice in the Old Testament scripture, cannot be denied.

But still there were many things authorized in the period of the world when they were written which could not be tolerated now without overturning the whole system of our civilization, based, as it is, on the new and better revelation of the common Savior of us all. While it must be confessed that the practice of polygamy prevailed to a limited extent, yet it should be remembered that it was in that age of the world when the twilight of a semi-barbarism had not yielded to the effulgence of the coming day, and when the glory and the fame of the kings of Israel consisted more in the beauty and multitude of their concubines than in the wisdom of their counselors. "An eye for an eye, and a tooth for a tooth," was once the *lex talionis* of the great Jewish law-giver. So capital punishment was awarded for Sabbath breaking; and there were many other statutes and customs which at this age of the world, if adopted, would carry us backward into the centuries of barbarism.

I lay it down as a sound proposition that no community can happily exist with an institution as important as that of marriage wanting in all those qualities that make it homogeneous with institutions and laws of neighboring civilized communities having the same object. Anomalies in the moral world cannot long exist in a state of mere abeyance; they must from the very nature of things become aggressive, or they will soon disappear from the force of conflicting ideas. This proposition is supported by the history of our race, and is so plain that it may be set down as an axiom. If we grant this to be true, we may sum up the conclusion of the argument as follows: either the laws and opinions of the community by which you are surrounded must become subordinate to your customs and opinions, or, on the other hand, you must yield to theirs. The conflict is irrepressible.

* * * * *

I respectfully call your attention to an Act of Congress passed the first day of July, 1862, entitled "An Act to punish and prevent the practice of polygamy in the Territories of the United States, and in other places, and disapproving and annulling certain Acts of the Legislative Assembly of the Territory of Utah." (Chap. CXXVII. of the Statutes at Large of the last Session of Congress, page 501.) I am aware that there is a prevailing opinion here that said Act is unconstitutional, and therefore it is recommended by those in high authority that no regard whatever should be paid to the same—and still more to be regretted, if I am rightly informed, in some instances it has been recommended that it be openly disregarded and defied.

I take this occasion to warn the people of this Territory against such dangerous and disloyal counsel. Whether such Act is unconstitutional or not, is not necessary for me either to affirm or deny. The individual citizen, under no circumstances whatever, has the right to defy any law or statute of the United States with impunity. In doing so, he takes upon himself the risk of the penalties of that statute, be they what they may, in case his judgment should be in error. The Constitution has amply provided how and where all such questions of doubt are to be submitted and settled, viz: in the courts constituted for that purpose. To forcibly resist the execution of that Act would, to say the least, be a high misdemeanor, and if the whole community should become involved in such resistance, would call down upon it the consequences of insurrection and rebellion. I hope and trust that no such rash counsels will prevail. If, unhappily, I am mistaken in this, I choose to shut my eyes to the consequences.

Amongst the most cherished and sacred rights secured to the citizens of the United States, is the right "to worship God according to the dictates of conscience." * * *

But here arises a most important question, a question perhaps that has never yet been asked or fully answered in this country—how far does the the right of conscience extend? Is there any limit to this right? and, if so, where shall the line of demarcation be drawn, designating that which is not forbidden from that which is? This is indeed a most important inquiry, and from the tendency of the times, must sooner or later be answered. I cannot and will not on this occasion pretend to answer this question, but will venture the suggestion that when it is answered the same rules will be adopted as if the freedom of speech and of the press were involved in the argument.

* * * * *

Because "the freedom of speech and of the press" is guaranteed, can the citizen thereby be allowed to speak slanderously and falsely of his neighbor? Can he write and print a libel with impunity? He certainly cannot; and his folly would almost amount to idiocy if he should appeal to the Constitution to shield him from the consequences of his acts. But the question may be asked—why not? The answer is at hand. Simply because he is not allowed to abuse these rights. If, upon a prosecution for slander or libel, the defendant should file his plea setting up that provision of the Constitution as a matter of defense, the plea would not only be bad on demurrer, but the pleader would be looked upon as a very bad lawyer. Will any one inform me why the same parity of reasoning should not apply in one case as the other?

That if an act, in violation of law and repugnant to the civilization in the midst of

which that act has been committed, should be followed by a prosecution, could be justified under the guaranty of the Constitution securing the "free exercise of religion" more than in the case above cited? I shall pause for an answer. There can be no limits beyond which the mind cannot dwell, and our thoughts soar in their aspirations after truth. We may think what we will, believe what we will, and speak what we will, on all subjects of speculative theology. We may believe with equal impunity the Talmud of the Jew, the Bible of the Christian, the Book of Mormon, the Koran, or the Veda of the Brahmin. We cannot elevate, other than by moral forces, the human soul from the low plane of ignorance and barbarism, whether it worships for its God, the Llama of the Tartars, or the Beetle of the Egyptians. But when religious opinions assume new manifestations and pass from mere sentiments into overt acts, no matter whether they be acts of faith or not, they must not outrage the opinions of the civilized world, but, on the other hand, must conform to those usages established by law, and which are believed to underlie our civilization.

But, the question returns—Is there any limit to the "free exercise of religion?" If there is not, then in the midst of the nineteenth century, human victims may be sacrificed as an atonement for sin, and "widows may be burned alive on the funeral pile." Is there one here who believes that such shocking barbarisms could be practiced in the name of religion, and in the "free exercise thereof" in any new State or Territory of the United States? If not, then there must be a limit to this right under consideration, and it only remains for the proper tribunal at the proper time to fix the boundaries, as each case shall rise involving that question.

Thus did Governor Harding, who, but five months before, had announced from the public platform in Utah that he came among her people with "no religious prejudices to overcome," and that "under no pretext whatever" would he consent to the violation of the right guaranteed by the Constitution to worship God according to the dictates of conscience, proceed to cast discredit upon a feature of the Mormon faith and deny the right of its disciples to practice it. Whatever the merits of the question involved—and it is a fact that the Mormons believed the anti-polygamy law to be unconstitutional—Governor Harding's inconsistency is apparent. Nor is he shielded by the argument, that some might make in his behalf, that at the time of his oration on the 24th of July, 1862, the act of Congress prohibiting polygamy in the Territories was unknown. It had been signed by the President of the United States fully three weeks before the event referred to, and the telegraph had heralded the fact to every part of the nation penetrated by the electric wire.

Says Mr. Stenhouse in relation to the Governor's action: "The *manner* of the delivery of the message was worse than the matter, and probably no Legislature ever felt more humiliated and insulted. It was painful to observe the Legislators, as they sat quiet and immovable, hearing their faith contemned. It was interpreted as an open and gratuitous insult on the part of the Executive."

The Legislators, aside from ignoring the offensive message—insomuch, at least, as to fail to authorize its complimentary publication—took no steps to indicate their displeasure, but went quietly to work preparing and passing laws for the weal of their constituents. Only twenty measures passed the Legislature that session, but of that twenty Governor Harding vetoed fourteen.

Subsequently it was learned that he, in conjunction with Judges Waite and Drake, were working secretly against the people of the Territory, mainly through the media of letters written to members of the Government and others at Washington. Public indignation was aroused, and early in the spring of 1863, mass meetings were held at various points to protest against the conduct of the three officials.

The principal gathering for this purpose convened at the Tabernacle in Salt Lake City on the 3rd of March. Captain Thomas' brass band was early upon the scene, enlivening the occasion with patriotic airs. "Hail Columbia" having been rendered with stirring effect, the meeting was organized with Hon. Daniel Spencer as chairman, William Clayton and Thomas Williams as secretaries, and George D. Watt and John V. Long as reporters. President Joseph Young offered prayer, and the band played the "Star Spangled Banner." Hon. John Taylor then arose and stated the object of the meeting. They had assembled, he said, for the purpose of investigating certain acts of several of the United States officials now in the Territory. The time had come for certain documents to be placed before the people and before the country, and on which they could not avoid taking action. Referring to Governor Harding's message, the speaker said that though the Legislature was under no obligation at the opening of the session to publish it,—such action on their part

being purely complimentary,—they did think at first of so doing, but out of respect for themselves and for the sake of His Excellency, had reconsidered their intention. Mr. Taylor then resumed his seat and Hon. Albert Carrington came forward and read the Governor's message from the printed journals of the Legislature. The reading of the document was listened to with rapt attention, but the indignation of the assembly at the insult offered their representatives, though suppressed, was very apparent.

Mr. Carrington drew attention to the inconsistencies of the Governor's professions and actions. He said that His Excellency reminded him of the man curing his sick cow; he commenced with giving her sweet apples, and every now and then threw in an onion. The Governor admitted that the Constitution debarred him from interfering with their religious rights, and yet at every opportunity throughout the message he attacked them. He conceded that polygamy was a religious rite and a matter of faith with the people, and stated that he would neither affirm nor deny in relation to it, while at the same time he held it up to ridicule and obloquy, and everywhere affirmed that it was not only contrary to civilization, but anomalous, contrary to law, unconstitutional, and that it could not be endured. These were some of the reasons why the Legislature had omitted the complimentary printing of the message. Mr. Carrington then went on to show how the Governor had further been false to his professions of friendship for the people, and how Judges Waite and Drake had assisted him in his assault upon their liberties. In proof of this he read some correspondence from Delegate Bernhisel and Senator-elect Hooper, at Washington. One was a letter dated January 22nd, in which Governor Harding was represented as having communicated to Hon. Hannibal Hamlin, Vice-President of the United States, his message, with a letter stating that said message had been suppressed through the influence of one of Utah's prominent citizens,—referring of course to President Young. The last paragraph of the letter from Washington was as follows: "I entertain strong hopes that we shall be able to obtain, before the termina-

tion of the session, an appropriation to liquidate your Indian amounts, unless prevented by Governor Harding's insinuation of the disloyalty of our people."

Mr. Carrington also read to the meeting the following extract from a letter dated at Washington, in February:

On the 11th of December last, Senator Browning introduced a bill in the Senate which was referred to the Committee on the Judiciary. This bill was prepared at Great Salt Lake City, and its enactment by Congress recommended by Governor Harding and Judges Waite and Drake. The leading and most exceptional features of this bill are the following: 1st: It limits the jurisdiction of the Probate Courts to the probate of wills, to the issue of letters of administration and the appointment of guardians. 2nd: It authorizes the Marshal to summon any persons within the district in which the court is held that he thinks proper as jurors. 3rd: It authorizes the Governor to appoint and commission all militia officers, including Major-General, and remove them at pleasure. It also confers on the Governor authority to appoint the days for training.

Captain Hooper confirmed this in a letter written late in January, in which he said: "The bill has been presented and referred back. There does not appear to have been any action on it.
* * * The bill was drawn up at Salt Lake and attached with eyelets. Also attached was as follows: 'The bill should be passed.' Signed:—S. S. Harding, Governor; Waite and Drake, Associate Justices."

The reading of these extracts created quite a sensation. Mr. Carrington remarked sarcastically that it was thus Governor Harding proposed "to help us," and that His Excellency's private room was "a new place for drafting bills for the action of Congress." The speaker took his seat amid a storm of applause. The following speech was then delivered by Hon. John Taylor:

It has already been stated that these documents speak for themselves. They come from those who are ostensibly our guardians and the guardians of our rights. They come from men who ought to be actuated by the strictest principles of honor, truth, virtue, integrity, and honesty, and whose high official position ought to elevate them above suspicion, yet what are the results?

In relation to the Governor's Message, enough perhaps has already been said. We are not here to enter into any labored political disquisitions, but to make some plain matter-of-fact statements, in which are involved the vital interests of this community. There is one feature, however, in that document which deserves a passing notice. It

would seem that we are by direct implication accused of disloyalty. He states that he has not heard any sentiments expressed, either publicly or privately, that would lead him to believe that much sympathy is felt by any considerable portion of this people in favor of the Government of the United States. Perhaps we may not be so blatant and loud-spoken as some people are; but is it not patent to this community that the Legislature, during the session of 1861-2, assumed the territorial quota of taxation? and at the very time that His Excellency was uttering this infamy, a resolution passed by the House, lay on the table, requesting the secretary to place a United States flag on the State House during the session. This was a small affair, yet significant of our feelings.

It is not a matter of very grave importance to us generally what men may think of us, whether they be Government officials or not; but these allegations assume another form, and their wickedness is now rendered vindictive from the peculiar circumstances in which our nation at the present time is placed. When treason is stalking through the land, when all the energies, the wealth, the power of the United States have been brought into requisition to put down rebellion, when anarchy and distrust run riot through the nation; when, under these circumstances, we had a right to look for a friend in our Governor, who would, at least, fairly represent us, we have met a most insidious foe, who, through base insinuations, misrepresentations and falsehood, is seeking with all his power, privately and officially, not only to injure us before the Government, but to sap the very foundations of our civil and religious liberty; he is in fact, in pursuit of his unhallowed course, seeking to promote anarchy and rebellion, and dabbling in your blood. It is then a matter of no small importance [hear, hear]. Such it would seem were Governor Harding's intentions when he read this message, such were his feelings when he concocted it. The document shows upon its face that it was not hastily written; it has been well digested and every word carefully weighed. It most assuredly contains the sentiments of his heart [hear, hear], of which his Washington letters are proof positive in relation to our alleged disloyalty.

We are told about the generous reception of our senators-elect; of this we are most profoundly ignorant. Their reception was not so gracious as he would represent. He labors under error, for which we do not feel to reproach him; but what are we to think of his official letters to Washington? They are facts. What of his gracious acts of kindness to this people and to their representatives! From the statements of our representatives in Congress, he is the most vindictive enemy we have. The only man, it would seem, who is insidiously striving to sap the interests of the people, and to injure their reputation, yet he is our Governor, and professes to represent our interests and feel intensely interested in our welfare. Let us investigate for a short time the results of his acts, should his designs be successful, leaving the allegations of treason out of the question.

We have been in the habit of thinking that we live under the auspices of a republican government; that we had the right of franchise; that we had the privilege of voting for whom we pleased, and of saying who should represent us; but it may be that we are laboring under a mistake, a political illusion. We have thought, too, that if a man among us was accused of crimes, that it was his privilege to be tried by his peers; by people whom he lived among, who would be the best judges of his actions. We

have further been of the opinion that, while acting in a military capacity, when we are called to muster into service, to stand in defense of our country's rights, we had a right to the selection of our own officers. It is republican usage—we have always selected our own militia officers; but if the plotting of Governor Harding and our honorable Judges should be carried into effect we can do so no more; we shall be deprived of franchise, of the rights of trial by an impartial jury, and shall be placed in a military capacity, under the creatures of Governor Harding or his successors' direction; in other words, we shall be deprived of all the rights of freemen, and placed under a military despotism; such would be the result of the passage of this act. Let us examine it a little. An act already framed by the Governor and Judges, passed in the congress of Governor Harding's sitting-room, is forwarded to Washington with a request that it should be passed. Now suppose it should, what would be the result? As I have stated, we suppose that we possess the rights of franchise; that is a mistake, we do not, we only think we do. The Governor has already taken that from us. How so? Have we not the privilege of voting for our own legislators, our own representatives in the Legislative Assembly? Yes. But the Governor possesses the power of veto. This old relic of Colonial barbarism ingrafted into our Territorial organization was always in existence among us, but never was so foully abused as in the person of our present Governor; he has done all he could to stop the wheels of government, and to produce dissatisfaction, and has exercised his veto to the fullest extent of his power. As an instance of this, there were twenty laws passed by the Legislative Assembly, only six of which are approved; two of those were resolutions, one changing the place of meeting from the Court House to the State House, and the other the adjournment to next session. The other four are matters of minor importance, while everything connected with the welfare of the community, fourteen acts, are just so much waste paper. Now, I ask, where is your franchise? In Governor Harding's pocket or stove.

Again, in regard to juries, already referred to, you know what the usage has been, in relation to this matter. Governor Harding and the Judges want to place in the hands of the United States Marshal the power of selecting juries whom he pleases, no matter whither they come, or who they are. This is what our honorable Judges and Governor would attempt. Your liberties are aimed at, and your rights as freemen; and then if you do not like to be disfranchised, and your liberties trampled under foot by a stranger—if you do not like to have black-legs and cut-throats sit upon your juries, Mr. Harding wants to select his own military, and choose his own officers to lead them, and then if you will not submit, "I will make you." [voices all over the house, "Can't do it," with loud applause.] We know he cannot do it, but this is what he aims at. [Clapping and great applause.] When these rights are taken from us, what rights have we left? [Cries of "None."] It could scarcely be credited that a man in his position would so far degrade himself as to introduce such outrageous principles, and it is lamentable to reflect upon, that men holding the position of United States Judges could descend to such injustice, corruption and depravity [applause]. These things are so palpable that any man with five grains of common sense can comprehend them; "he that runneth may read." It is for you to judge whether you are willing to sustain such men in the capacity they act in or not. [One unanimous cry of "No!" and loud clapping].

President Young then came forward to the speaker's desk and was greeted with prolonged applause. He stated that he had no intention of delivering a lengthy address, but while he spoke he would solicit the quiet of the assembly. He knew well the feelings of his auditory, but would prefer that they should suppress their demonstrations of applause to other times and places, when they might have less business and more leisure. On the resumption of perfect silence, he said that they had heard the message of the Governor to the last Legislature of Utah. They would readily perceive that the bread was buttered, but there was poison underneath. It seemed to him that the enemies of the Union, of the Constitution and of the nation, were determined to ruin if they could not rule. A foreseeing person might suppose that they conspired to bring about a revolution in the west, so as to divide the Pacific from the Atlantic States, for their acts tended to that end.* He believed that no true Democrat, no true Republican desired to see the nation distracted as it now was, but the labors of fanatics, whether they had plans which they comprehended or not, were in that direction. When Governor Harding came to this Territory last July, he sought to ingratiate himself into the esteem of our prominent citizens, with whom he had early intercourse, by his professed friendship and attachment to the people of Utah. He was then full of their praises, and said that he was ready to declare that he would stand in the defense of polygamy, or he should have to deny the Bible, and that he had told the President of the United States before he left Washington, that if he was called upon to agitate the question, he would have to take

*President Young is understood to have received a proposition from certain politicians in California during this period, representing that it was in contemplation by the people of the Golden State, in case the Union was broken up by the war, and North and South permanently divided, to form the nucleus of a Federation embracing the States and Territories of the Pacific Slope, and inviting Utah to join them. This was at a time when it was thought probable that the Southern States would achieve their independence and become a distinct nation. President Young did not entertain the proposition, and about the same time rejected overtures from the Southern Confederacy. Utah proposed to "stand by the Union."

the side of polygamy, or he should have to renounce the Bible. He said, in the Bowery, on the 24th of July, and at other places and at other times that if he ever learned that he was obnoxious to the people, and they did not wish his presence, he would leave the Territory.

[Voices everywhere: "He had better go now."]

He was not aware whether the two Associate Judges were tools operating with him, or whether they knew no better. The success sought in their schemes was the establishment of a military government over the Territory, in the hope of goading on the people to open rupture with the general government. Then, they would call out that Utah was disloyal! He was aware that nothing would please such men better than the arrest of all progress westward; they would, no doubt of it, be delighted to see the stoppage of travel across the plains and all intercourse by mail or telegraph destroyed. Any amount of money had been employed by parties interested in mail transportation and passenger travel to the Pacific, by way of Panama, to destroy the highway across the plains; and there were men among them not above operating to the accomplishment of that end, under the pretence of other purposes.

He then alluded to the law that was drafted in this city and sent to Washington for adoption by Congress, to take from the people their rights as free American citizens, and portrayed the despotism that would follow placing the power of selecting jurors in the hands of a United States marshal. Any such power could, in the hands of designing men, destroy and subvert every right of free citizens. For that purpose, any class of disreputable men could at any time be imported into the Territory, and with a residence of a few hours be the ready tools for the accomplishment of any purpose. When their rights and the protection of their liberties were taken from them, what remained? [Voices, "Nothing, nothing."] Yes, service to tyrants, service to despots!

He concluded his address by expressing that his feelings were that the nation might be happy and free as it had been, and exhorted

the people to be true to themselves, to their country, to their God, and to their friends. President Young resumed his seat amidst great applause and cheering.

William Clayton, Esq., then read the following

RESOLUTIONS :

Resolved, That we consider the attack made upon us by his Excellency Governor Harding, wherein our loyalty is impugned, as base, wicked, unjust and false; and he knew it to be so when uttered.

Resolved, That we consider the attempt to possess himself of all military authority and dictation, by appointing all the militia officers, as a stretch at military despotism hitherto unknown in the annals of our Republic.

Resolved, That we consider his attempt to control the selection of juries, as so base, unjust and tyrannical, as to deserve the contempt of all freemen.

Resolved, That we consider the action of Judges Waite and Drake, in assisting the Governor to pervert justice and violate the sacred palladium of the people's rights, as subversive of the principles of justice, degrading to their high calling, and repulsive to the feelings of honest men.

Resolved, That we consider that a serious attack has been made upon the liberties of this people, and that it not only affects us as a Territory, but is a direct assault upon Republican principles, in our own nation, and throughout the world; and that we cannot either tamely submit to be disfranchised ourselves, nor witness, without protest, the assassin's dagger plunged into the very vitals of our national institutions.

Resolved, That while we at all times honor and magnify all wholesome laws of our country, and desire to be subservient to their dictates and the equitable administration of justice, we will resist, in a proper manner, every attempt upon the liberties guaranteed by our fathers, whether made by insidious foes, or open traitors.

Resolved, That a committee be appointed by the meeting to wait upon the Governor and Judges Waite and Drake, to request them to resign their offices and leave the Territory.

Resolved, That John Taylor, Jeter Clinton and Orson Pratt, Senior, be that committee.

Resolved, That we petition the President of the United States to remove Governor Harding and Judges Waite and Drake, and to appoint good men in their stead.

The resolutions were adopted with a ringing cheer, and without a dissenting vote. The following petition, having been read to the meeting, was also unanimously adopted:

THE PETITION TO PRESIDENT LINCOLN.

To his Excellency, Abraham Lincoln, President of the United States :

SIR:—We, your petitioners, citizens of the Territory of Utah, respectfully represent that:
Whereas, From the most reliable information in our possession, we are satisfied

that his Excellency Stephen S. Harding, Governor, Charles B. Waite and Thomas J. Drake, Associate Justices, are strenuously endeavoring to create mischief and stir up strife between the people of the Territory of Utah and the troops now in Camp Douglas (situated within the limits of Great Salt Lake City,*) and, of far graver import in our Nation's present difficulties, between the people of the aforesaid Territory and the Government of the United States.

Therefore, We respectfully petition your Excellency to forthwith remove the aforesaid persons from the offices they now hold, and to appoint in their places men who will attend to the duties of their offices, honor their appointments, and regard the rights of all, attending to their own affairs and leaving alone the affairs of others; and in all their conduct demeaning themselves as honorable citizens and officers worthy of commendation by yourself, our Government and all good men; and for the aforesaid removals and appointments your petitioners will most respectfully continue to pray.

GREAT SALT LAKE CITY, TERRITORY OF UTAH, March 3rd, 1863.

The band then rendered "The Marsellaise" and the assembly dispersed.

The following report of the committee appointed by the mass meeting to visit Governor Harding and Judges Waite and Drake and request their resignations, speaks for itself:

GREAT SALT LAKE CITY, March 5th, 1863.

To the citizens of Great Salt Lake City:

GENTLEMEN:—Your committee, appointed at the mass meeting held in the Tabernacle on the 3rd inst., waited upon his Excellency Governor Harding and their Honors Judges Waite and Drake, on the morning of the 4th.

Governor Harding received us cordially, but, upon being informed of the purport of our visit, both himself and Judge Drake, who was in the Governor's office, emphatically refused to comply with the wishes of the people, notwithstanding the Governor had repeatedly stated that he would leave whenever he learned that his acts and course were not agreeable to the people.

Upon being informed that, if he was not satisfied that the action of the mass meeting expressed the feelings of the people, he could have the expression of the whole Territory, he replied, "I am aware of that, but that would make no difference."

Your committee called at the residence of Judge Waite, who, being absent at the time, has since informed us, by letter, that he also refuses to comply with the wishes of the people.

JOHN TAYLOR,
JETER CLINTON,
ORSON PRATT, Sen.

* One of the objections of the citizens to the location of Camp Douglas, was the fact that the use of the mountain waters by the garrison for culinary and irrigating purposes greatly diminished the supply of a portion of the inhabitants. During the dry summer season this was a great deprivation.

The refusal to resign was of course anticipated; hence the adoption beforehand of the petition to President Lincoln, praying for the removal of the obnoxious officials. Several thousand signatures to the document were speedily obtained, and it was then forwarded to Washington. That the actions of the three officials were in accord with the feelings of Colonel Connor and the officers at Camp Douglas is evident from the fact that a counter-petition, signed by them, asking that Governor Harding and Judges Waite and Drake be retained in office, was at once prepared and sent to President Lincoln. Chief Justice Kinney, Secretary Fuller and other Gentiles who failed to see eye to eye with their anti-Mormon associates at this period were styled by them "Jack-Mormons" and accused of "subserviency to Brigham Young."

It was about this time that President Young was accused of violating the anti-polygamy law, in marrying another wife. It was rumored and the rumor was straightway conveyed to him that a movement was on foot to have him arrested on such a charge. This report caused him little or no concern,—at least that portion of it,—but it was also reported and believed that Colonel Connor was about to make a descent with troops upon the President's residence, capture him and "run him off to the States for trial." To this kidnapping arrangement the defendant in prospect was naturally very much averse. Colonel Connor denied that any such act was contemplated, but his denial did not convince the friends of the President that the movement was not on foot, and his house was forthwith surrounded by armed guards determined to defend him at all hazards against an assault by the military. A very bitter feeling now prevailed between the civilians and the soldiers, each side watching the other with a jealous eye, and a collision at any moment seemed imminent.

In order to take the wind out of his enemies' sails and defeat any plan, if it existed, to encompass his arrest by the military, President Young on the 10th of March permitted himself to be

arrested by United States Marshal Gibbs, unaccompanied by troops, and taken before Chief Justice Kinney at the State House. An investigation was had, and the defendant was held to bail in the sum of two thousand dollars for his appearance at the next term of court. The grand jury failed to indict, on the ground of an insufficiency of evidence, and the President in due time was released from his bond.

Stenhouse states, in explanation of the rumor relating to the proposed military arrest of the Mormon leader, that Colonel Connor had visited Judge Waite and as he was leaving his house "one of the Elders, who was loitering about, believed that he overheard the General say, 'These three men must be surprised,'" meaning, it was supposed, the First Presidency. Immediately the alarm was given and the President's life-guards flew to arms to protect him against the expected outrage. The author of the Rocky Mountain Saints also alleges that what Colonel Connor really did say on the occasion in question was not in reference to Brigham Young at all, but to "one of the brethren" who "had married the three widows of a wealthy merchant within sight of Judge Waite's residence, and as that was an excellent case in which to try the application of the anti-polygamic law, the Colonel replied to the Judge that he would arrest him if the court furnished the order. The anticipation that difficulty would arise from Judge Waite acting within Judge Kinney's district while the latter was present, was the only thing that prevented the arrest." That Judge Waite hesitated in this particular instance to exercise judicial functions in Judge Kinney's district from such a motive as that assigned by Mr. Stenhouse, if true, was a little strange; since it is a well known fact that Judge Waite did actually hold court in the district presided over by the Chief Justice, and that, too, while he himself was officiating therein. Such arbitrary conduct on the part of the Associate Justice could have but one effect—that of increasing the distrust and dislike with which he was already regarded by the people.

Of course these exciting rumors were at once telegraphed

east and west and the press throughout the country began commenting on the prospect of another "war" in Utah to add to the nation's troubles during that perilous period. The *Daily Alta California* of March 11th, 1863, thus expressed itself on the subject:

We have some strange news today from Salt Lake, *via* New York. It is to the effect that there is danger of a collision between the Mormons and our troops there. The dispatch goes so far as to state that Governor Harding and Associate Justices Waite and Drake have called upon Colonel Connor to arrest Brigham Young and some of the Mormon leaders. It is strange that we have heard nothing on this side of these important events, and the first intimation we should have of what is going on should reach us *via* New York. We had, to be sure, a report recently of some angry meetings which had taken place there, but we had no idea that anything serious was going on.

To get at the facts of the case we telegraphed to Salt Lake last night. The telegram we received does not clear up matters fully. Our correspondent speaks of an anti-bigamy law as the cause of the trouble. We do not know of any except the one providing for the admission of Utah as a State, provided polygamy was abolished. The whole affair, therefore, is still enveloped in some confusion. There is one thing, however, that we do know; Colonel P. Edward Connor and his regiment were sent across the mountains to protect the telegraph and the overland mail, and to fight the Indians, and not to kick up trouble with Mormons or any other class of persons. The Government has enough of fighting now on its hands and there is no necessity of increasing it. Perhaps an expenditure of a few more millions of dollars in a Utah war is deemed necessary to promote the happiness of somebody behind the scenes.

This from the Sacramento *Daily Union* of March 12th:

It seems that matters at Salt Lake are in an unsettled and uncertain state. Some difficulty has grown up between the Governor, the United States Judges, and the head of the Mormon Church, which may—though we hope not—terminate in a collision. We never deemed it particularly an act of wisdom to order a single regiment to Salt Lake. It was not needed there for protection. We fear, too, that the Governor has been imprudent. The Mormons should, of course, submit to the laws, but laws ought not be forced upon them which are repugnant to a very large majority of that singular people. A conflict at this time would prove a great misfortune to California. It would also prove fatal to the Mormons, and hence we reason that they will avoid any hostile demonstrations except in self-defense. The pretty-much let-alone policy is the one which should be adopted toward the Mormons.

At the March term of the Third District Court occurred the trial of the Morrisites captured by the Marshal's posse in June of the previous year. Ten of them had been indicted for the murder of the

two members of the posse killed at Kington Fort, and of these seven were convicted of murder in the second degree, two were acquitted and in the case of the remaining one a *nolle* was entered. The sentences of the convicted parties ranged from fifteen years in the case of one to ten years in the case of five. Sixty-nine of the remaining prisoners were fined one hundred dollars each for resisting an officer in the service of process. Within three days of the trial petitions circulated among Federal officials and extensively signed by them as well as by persons at Camp Douglas were presented to Governor Harding for the pardon of the Morrisites, and by him granted. He extended executive clemency to the whole seventy-six in two proclamations bearing date of March 31st, 1863. Shortly after their release the most of the Morrisites found employment at Camp Douglas, and later accompanied a detachment of troops to Idaho where a new military post was established. Some of them lived for many years in a little settlement near Soda Springs.

Before leaving Utah, however, one of their number, Alexander Dow, was prevailed upon to make affidavit as to the bloodthirstiness and cruelty shown in this "fearful Mormon outrage" at Kington Fort. Dow was a soldier in the Morrisite army, and had been freed by the action of Governor Harding from the fine of one hundred dollars imposed upon him. That the fate of Morris and Banks was due to their apostasy from the Mormon Church, and was meted out to them because of jealousy on the part of Church leaders; that it, in a word, was but another exhibition of the determination of the dominant Church to remove all opposition, was currently talked among Federal officials and the authorities at the military post. Small wonder, therefore, that Dow and others came to take that view of their case. His affidavit is dated April 18th, 1863, and it was sworn to before Associate Justice Waite. His story, describing how General Burton deliberately shot Morris, then turned and shot Banks, then, because Mrs. Bowman charged him with his crime, shot her, and then, because a Danish woman ran crying to Morris' body, shot her also, furnished the theory for the prosecution

afterwards instituted, though no reputable authority ever credited the tale.*

At the hot haste manifested by Governor Harding to pardon and turn loose the convicted Morrisites, Chief Justice Kinney and the Grand Jury of his court were highly indignant. Prior to concluding their labors the Grand Jury made a formal presentment of the Governor and his precipitate action for judicial censure. After detailing the events incidental to the capture, trial and conviction of the Morrisite offenders, the Jury in their address to the Chief Justice, said:

But the Governor, clothed with the pardoning power, interposes to prevent the punishment due to rebels against the law. He sanctions and sustains their rebellion, and, by pardoning them, proclaims to the world that they have acted rightly, wisely and lawfully. No time is allowed for investigation, none for repentance or reformation; but in less than three days from the time of the sentence of the court, all of them are pardoned by the Executive, to renew their armed resistance against the power of the Government—a pardon which not only seeks to release them from fine and punishment, but the costs due to the officers and witnesses. * * * * *

Therefore, we the United States Grand Jury for the Third Judicial District for the Territory of Utah, present his "Excellency," Stephen S. Harding, Governor of Utah, as we would an unsafe hridge over a dangerous stream—jeopardizing the lives of all who pass over it, or, as we would a pestiferous cesspool in our district, breeding disease and death.

Believing him to be an officer dangerous to the peace and prosperity of this Territory; refusing, as he has, his assent to wholesome and needed legislation; treating nearly all the Legislative acts with contumely; and last of all, as the crowning triumph of his inglorious career, turning loose upon the community a large number of convicted criminals.

We cannot do less than present his Excellency as not only a dangerous man, but also as one unworthy the confidence and respect of a free and enlightened people.

All of which is respectfully submitted.

George A. Smith, Franklin D. Richards, Elias Smith, William S. Muir, Samuel F. Atwood, Philip Margetts, John Rowberry, Claudius V. Spencer, Charles J. Thomas, John W. Myers, Alfred Cordon, George W. Ward, Horace Gibbs, Lewis A. West, Leonard G. Rice, Isaac Brockbank, George W. Bryan, James Bond, John B. Kelley, Gustave Williams, Wells Smith, John D. T. McAllister, Andrew Cunningham.

* In 1879 General Burton was brought to trial before Chief Justice Schaeffer for the alleged killing of Mrs. Bowman. The case was conducted with great ability on both sides, and after a lengthy examination the jury, composed equally of Mormons and non-Mormons, returned a verdict of not guilty.

Judge Kinney, having directed that the presentment by the Grand Jury be spread upon the records of the court, addressed the members of that body as follows:

Gentlemen of the Grand Jury:

The paper just read by the clerk, is one of great responsibility, presenting the Governor of this Territory as unworthy the confidence and respect of the people.

I trust you have fully considered the importance of the step which you as a Grand Jury have felt called upon, under the oaths of your office, to take.

I am well persuaded that in no spirit of malice or undue prejudice have you been induced to call the attention of the court and people to what you regard as the official misconduct of the Executive, but only as the deliberate result of your investigations for the public good.

I am perfectly familiar with the facts referred to by you in relation to the armed resistance to the law in the service of process. Upon affidavit made before me were the writs issued, the service of which was attempted to be resisted by an armed rebellion.

The trial of men thus found in arms very recently took place in the court over which I have the honor to preside, and the trial as you state was conducted with deliberation, and the verdict of the jury in each of the cases for resisting the officer and for murder were such as met with the approval of the court.

The law and the authority were fully vindicated by the verdicts, but, as you state, the Governor has granted an unconditional pardon.

What effect this may have on the minds of evil disposed persons I know not, but leave the responsibility where it belongs, with the Governor, who, in the exercise of a naked power, has seen proper to grant executive clemency.

* * * * *

It is possible, and highly probable, that this is the last court over which I shall have the honor to preside in your Territory. Such are the indications. I have been the Chief Justice of the Supreme Court of Utah, and Judge of this district most of the time since 1854—having come among you a stranger, but I was treated with kindness, and my authority with consideration and respect.

Appointed by Mr. Pierce in 1853, and reappointed in 1860 by Mr. Buchanan, and continued in office by Mr. Lincoln, and having held many courts, tried many cases, both civil and criminal, of an important character, I am happy in being able to state that I have found no difficulty in Utah in administering the law, except where its administration has been thwarted by Executive interference.

Let honesty, impartiality and ability be the characteristic qualifications of the Judge, and a fearless discharge of duty, and he will be as much respected in this Territory, and his decisions as much honored, as in any state or Territory of the Union. And to use an odious distinction, attempted to be made between Mormon and Gentile, I am also happy in being able to state, that while these parties, differing so widely as they do in their religious faith, have been suitors in my court, the so-called Gentile, has obtained justice from the verdict of a so-called Mormon jury.

I repeat gentlemen, that the law is, and can be maintained in this Territory, and that there is more vigilance here in arresting and bringing criminals to trial and punishment than in any country where I have ever resided.

In the discharge of my judicial duties, I have endeavored to be actuated by a sense of the responsibility of my position; ever keeping constantly in mind that I was among a civilized and enlightened people, who were entitled to the same consideration from the court, as the people of any other Territory; and that the court here, as well as elsewhere, should be free from bias and prejudice.

Gentlemen, accept my thanks for your co-operation, in support of my efforts to maintain and enforce the law.

To the Petit Jurors I will say, that I have been well sustained by them in the trial of cases, and can only hope that when I retire from the bench my successor will be an able, honest judge, and have no more difficulty in discharging his duties than I have had.

* * * * *

Several weeks later Governor Harding was removed, and left for the east on the 11th of June. His official decapitation was looked upon, and doubtless with good reason, as a concession by President Lincoln to the Mormon people. This is not saying, however, that it was not also dictated by that spirit of justice and love of right so eminently characteristic of the great and lamented martyr President.* At the same time Lincoln did not entirely ignore the claims of the opposition. While convinced, from the showing made by the citizens at their mass meetings—reports of which were forwarded to Washington—that Harding was not “the right man in the right place” as Governor of Utah, the President doubtless believed that there was more or less truth in the charge of “subserviency to Brigham Young,” made by local anti-Mormons against Chief Justice Kinney and Secretary Fuller. He therefore removed them as well as Harding, and filled the vacancies created by the appointment of the following named officials: Governor, James Duane Doty; Secretary,

* There were whisperings that the Governor's removal was partly caused by the disgrace attaching to him from the birth of an illegitimate child, whose mother was a hired help in the Harding household. The *News* broadly hints at something of the kind without positively asserting it, and Mr. Stenhouse, in his “Rocky Mountain Saints,” speaks of it as follows: “They [the Saints] were not long in discovering that S. S. H. was not the proper person to lecture them on the immorality of polygamy. His removal did credit to the Government.”

Amos Reed;* Chief Justice, John Titus. Mr. Doty at this time still held the office of Superintendent of Indian Affairs for the Territory, Mr. Reed had for a brief period been a resident of Utah, and Judge Titus was a citizen of Pennsylvania. President Lincoln about this time gave Federal appointments to two prominent Mormons. They were Colonel Jesse C. Little and Colonel Robert T. Burton, the former of whom was made Assessor and the latter Collector of Internal Revenue for the District of Utah.

Judge Kinney had felt for some time that his removal was imminent. "Such are the indications," said he in his address to the Grand Jury of his court at the close of the March term. But the people of Utah would not suffer one whom they had learned to highly esteem to immediately retire into private life, and as the time for the regular biennial election of delegate to Congress drew near, the name of Hon. John F. Kinney was put forward to receive the suffrages of the citizens. He was elected on the 3rd of August, 1863, and represented Utah in Congress during the succeeding term. That he ably championed the cause of his constituents is evident from the tone of his speeches in the House of Representatives on the Utah question. His first effort of that kind was on the 27th of January, 1864, in reply to Hon. Fernando Wood, of New York, who, in the course of a speech delivered the day before, had referred to the Mormon people as "profligate outcasts," who had "always been hostile" to the "moral and political institutions" of the country. Judge Kinney's reply was an eloquent vindication of the people assailed, against the charges of the gentleman from New York, and a scathing arraignment of the ex-mayor of the metropolis for his alleged sympathy with the Confederate cause. An able plea for Utah's statehood was made by Delegate Kinney on the 17th of March of the same year.

* Amos Reed was the son of John Reed, of Colesville, Broome County, New York, who, in the summer of 1830, defended Joseph Smith, the founder of Mormonism, at his trial in that town.

CHAPTER V.

1863-1865.

OPENING OF THE UTAH MINES—GENERAL CONNOR PIONEERS THE MOVEMENT AND PUBLISHES IT TO THE WORLD—THE "UNION VEDETTE"—THE DAILY "TELEGRAPH"—CONNOR'S PLAN TO RECONSTRUCT UTAH—A PROVOST GUARD PLACED IN SALT LAKE CITY—BRIDGING THE CHASM—SOLDIERS AND CITIZENS UNITE IN CELEBRATING PRESIDENT LINCOLN'S REINAUGURATION—AN ERA OF GOOD FEELING—PRESIDENT LINCOLN'S ASSASSINATION FILLS ALL UTAH WITH GLOOM—FUNERAL RITES IN HONOR OF THE NATION'S DEAD.

IT was in the latter part of 1863 that the first move was made toward the opening of the Utah mines. Such a movement, it has often been charged, was directly contrary to the wishes of the Mormon leaders, and there is no doubt that that charge, so far as it relates to what they deemed the premature opening of the mines, is strictly true. We refer of course to gold and silver mines. Mining for coal and iron had been engaged in by the Mormons more than ten years previously. But it was the Gentiles of Utah who first mined systematically after the precious metals within her borders.

That the mountains of the Territory teemed with such metals, gold and silver, as well as with lead, copper, iron, coal and every other variety of the "useful minerals," had always been believed by the Mormon leaders, who made no secret of their belief but freely expressed it to their followers. Nor had evidences, tangible evidences that such was indeed the case been lacking. Long before the ring of the prospector's pick was heard on the hillsides, it was no uncommon thing for loggers among the mountains to come upon specimens of shining ore, out-croppings of hidden ledges, displaced perchance by falling trees or descending boulders and sent rolling down the rocky slopes. But of the real nature of these glittering "finds," most of them, having no knowledge of mines or mining,

were quite unaware. Gold might be iron pyrites, or iron pyrites gold, for aught the great majority of the Mormons knew, or cared to know concerning it in those days,—days when the “gold fever” was raging with unabated fierceness along the slopes of the Sierras. They had not come to the mountains for gold and silver, but for what was, and is, and ever will be to people of their tone and temper, of far greater worth,—peace and freedom; and though taught to believe that the land they had “inherited” was “choice above all other lands,” not only for these requisites to happiness, but “for the precious things of the everlasting hills,” there was no particular desire on the part of the general community to avail themselves of the opportunities afforded to grow rich by mining. When the proper time should come, their leaders declared, the riches of the earth would be theirs, would be emptied into their laps, as it were, and they should have gold, silver, precious stones and all that such baubles could buy, to their hearts’ content. But until that time came they should seek for the true riches, knowledge, wisdom and righteousness,—the riches of eternity; for wealth that fades not away nor perishes with the using. Among their temporal pursuits agriculture was exalted and extolled as the basis of their prosperity, and home manufactures stood next. They were to till the earth and raise and store up grain against times of need; for gold and silver could not be eaten, nor could it purchase provisions in seasons of famine, such as early Utah had seen, and which might at any time recur. They were to build mills and factories and seek to become a self-sustaining people, in order that they might stand independent in these respects and be benefactors to their kind in the event of war, famine and general distress overtaking the nations. Iron and coal mining was encouraged, but not the mining after precious metals, the love of which would fire the passions, engender greed and avarice, promote pride, vanity and class distinctions, and so divide and demoralize the community. The attracting to Utah of that reckless and turbulent element which invariably forms no inconsiderable portion of the population of all mining countries, was also feared if the people should engage exten-

sively and enthusiastically in the search for precious minerals known to abound within the Territory. Peaceable people were welcome in Utah, but not the unpeaceable. Who wished to see Deseret, peaceful Deseret, the home of a people who had fled for religious freedom and quiet to these mountain solitudes, converted into a rollicking, roaring mining camp? Not the Latter-day Saints. A time might come when they would welcome such a change, but that time, in their opinion, had not yet arrived.* Such was the substance of the arguments with which the Mormon authorities sought to dissuade and succeeded in dissuading most of their followers, who showed any symptoms of being affected by that wide-spread, far-reaching contagion "the gold fever," from engaging prematurely in mining. Thus it was that the Gentiles of Utah, and not the Mormons, became the pioneers and earliest promoters of this now flourishing industry in our mountain Territory, aptly termed by President Lincoln "the treasure-house of the nation."

The credit of taking the first step in this direction is accorded by common consent to General P. E. Connor, the commander at Camp Douglas, who, during the first year of his sojourn in the Territory, began to evolve a grand scheme for the opening and development of the Utah mines and simultaneously for the overthrow, as he hoped, of the hated Mormon power. It began, according to Mr. Stenhouse, in this way. A party of soldiers from Camp Douglas were guarding some horses belonging to the garrison which had been sent to graze in Bingham Canyon. They were joined one day by General Connor and a pic-nic party of officers and their wives from Camp, and one of the ladies, while rambling on the mountain sides, picked up a loose piece of ore. The soldiers at once prospected for the vein, discovered

* That they looked forward to such an era, is evident from the tenor of the memorial to Congress for the construction of a Pacific Railroad, issued by Governor Brigham Young and the Utah Legislature in March, 1852. Said the signers of that document: "Your memorialists are of opinion that the mineral resources of California and these mountains can never be fully developed to the benefit of the people of the United States without the construction of such a road." And until such a road was constructed the mineral resources of Utah never were so developed.

it, and striking a stake in the ground made their location, since which Utah has been known to the world as a rich mining country. Another account, by the historian E. W. Tullidge, states that a man named Ogilvie, while logging in the canyon, found a piece of ore which he sent to General Connor who had it assayed. It was then, according to Mr. Tullidge, that Connor organized his pic-nic party and proceeding to Bingham Canyon located the mine, which was named the Jordan. Soon afterward Connor wrote some mining laws and held a miners' meeting at Gardner's Mill on the Jordan River, where the laws were adopted and Bishop Gardner elected recorder of the West Mountain Mining District. Thus was the ball set rolling.

General Connor's next step was to publish the fact of his discovery—if *his* discovery it can be called—to the world. For this and other purposes he and his confreres established a paper called *The Union Vedette*, the first number of which bore the date of November 20th, 1863. The *Valley Tan* had by this time disappeared—as had also its journalistic foil *The Mountaineer*—and the *Vedette* was now the one Gentile paper of Utah. Its spirit and tone are indicated by its title,—*Vedette*, “a sentinel stationed on the outpost of an army to watch an enemy and give notice of danger.” It was ably edited by Captain Charles H. Hempstead, one of Connor's subordinate officers, and afterwards a prominent lawyer of Salt Lake City. Samuel De Wolfe succeeded Captain Hempstead as editor of this journal. The *Vedette* was first published at Camp Douglas, but was subsequently removed to the city, where it continued to “breathe out threatenings” against the Church authorities. It was made a daily—the first one issued in Utah—on January 5th, 1864. In July following sprang up *The Daily Telegraph*, a vigorous opponent of the *Vedette*, the organ of General Connor and the California Volunteers. The *Telegraph* was edited by T. B. H. Stenhouse, Esq., an efficient journalist, who was also its publisher, having as his associates John Jaques and James McKnight, with Colonel Thomas G. Webber as business manager.

The first number of *The Union Vedette* contained the following

circular letter from General Connor on the mines and mining interests of Utah:

HEADQUARTERS, DISTRICT OF UTAH,
GREAT SALT LAKE CITY, U. T. November, 14, 1863,

Colonel:

The general commanding the district has the strongest evidence that the mountains and canyons in the Territory of Utah abound in rich veins of gold, silver, copper and other minerals, and for the purpose of opening up the country to a new, hardy, and industrious population, deems it important that prospecting for minerals should not only be untrammelled and unrestricted, but fostered by every proper means. In order that such discoveries may be early and reliably made, the general announces that miners and prospecting parties will receive the fullest protection from the military forces in this district, in the pursuit of their avocations; provided, always, that private rights are not infringed upon. The mountains and their now hidden mineral wealth, are the sole property of the nation, whose beneficent policy has ever been to extend the broadest privileges to her citizens, and, with open hand, invite all to seek, prospect and possess the wonderful riches of her wide-spread domain.

To the end that this policy may be fully carried out in Utah, the General commanding assures the industrious and enterprising who may come hither, of efficient protection, accorded as it is by the laws and policy of the nation, and enforced, when necessary, by the military arm of the Government.

The General in thus setting forth the spirit of our free institutions for the information of commanders of posts within the district, also directs that every proper facility be extended to miners and others in developing the country; and that soldiers of the several posts be allowed to prospect for mines, when such course shall not interfere with the due and proper performance of their military duties.

Commanders of posts, companies and detachments within the district are enjoined to execute to the fullest extent the spirit and letter of this circular communication, and report, from time to time, to these head-quarters the progress made in the development of the Territory, in the vicinity of their respective posts or stations.

By command of Brig.-Gen. Connor:

CHAS. H. HEMPSTEAD,
Capt. C. S. and A. A. A. Gen'l.

General Connor's object in this movement is more fully set forth in a letter to the War Department written some months later. It ran as follows:

HEADQUARTERS DISTRICT OF UTAH,
CAMP DOUGLAS, UTAH TERRITORY,
Near Great Salt Lake City, July 21st, 1864.

Colonel:

Having had occasion recently to communicate with you by telegraph on the subject of the difficulties which have considerably excited the Mormon community for the past

ten days, it is perhaps proper that I should report more fully by letter relative to the real causes which have rendered collision possible.

As set forth in former communications, my policy in this Territory has been to invite hither a large Gentile and loyal population, sufficient by peaceful means and through the ballot-box to overwhelm the Mormons by mere force of numbers, and thus wrest from the Church—disloyal and traitorous to the core—the absolute and tyrannical control of temporal and civil affairs, or at least a population numerous enough to put a check on the Mormon authorities, and give countenance to those who are striving to loosen the bonds with which they have been so long oppressed. With this view, I have bent every energy and means of which I was possessed, both personal and official, towards the discovery and development of the mining resources of the Territory, using without stint the soldiers of my command, whenever and wherever it could be done without detriment to the public service. These exertions have, in a remarkably short period, been productive of the happiest results and more than commensurate with my anticipations. Mines of undoubted richness have been discovered, their fame is spreading east and west, voyageurs for other mining countries have been induced by the discoveries already made to tarry here, and the number of miners of the Territory are steadily and rapidly increasing. With them, and to supply their wants, merchants and traders are flocking into Great Salt Lake City, which by its activity, increased number of Gentile stores and workshops, and the appearance of its thronged and busy streets, presents a most remarkable contrast to the Salt Lake of one year ago. Despite the counsel, threats, and obstacles of the Church, the movement is going on with giant strides.

This policy on my part, if not at first understood, is now fully appreciated in its startling effect, by Brigham Young and his coterie. His every effort, covert and open, having proved unequal to the task of checking the transformation so rapidly going on in what he regards as his own exclusive domain, he and his Apostles have grown desperate. No stone is left unturned by them to rouse the people to resistance against the policy, even if it should provoke hostility against a government he hates and daily reviles. It is unquestionably his desire to provoke me into some act savoring of persecution, or by the dexterous use of which he can induce his deluded followers into an outbreak, which would deter miners and others from coming to the Territory. Hence he and his chief men make their tabernacles and places of worship resound each Sabbath with the most outrageous abuse of all that pertains to the Government and the Union—hence do their prayers ascend loudly from the housetops for a continuance of the war till the hated Union shall be sunk—hence the persistent attempt to depreciate the national currency and institute a “gold basis” in preference to “Lincoln skins,” as treasury notes are denominated in Sabbath day harangues.*

Hence it was that the establishment of a provost guard in the city was made the pretext for rousing the Mormon people to excitement and armed assembling, by the most ridiculous stories of persecution and outrage on their rights, while the fanatical spirit of

*General Connor was evidently laboring under the impression that he was still in California. The people of the Golden State repudiated at first the Government “green-backs,” but Utah and her citizens never did.

the people, and the inborn hatred of our institutions and Government were effectually appealed to, to promote discord and provoke trouble. I am fully satisfied that nothing but the firmness and determination with which their demonstrations were met, at every point, prevented a collision, and the least appearance of vacillation on my part would surely have precipitated a conflict. I feel that it is not presumptuous in me to say that in view of what has already been accomplished in Utah, that the work marked out can and will be effectually and thoroughly consummated if the policy indicated be pursued and I am sustained in my measures at department headquarters. I am fully impressed with the opinion that peace is essential to the solving of the problem, but at the same time conscious that peace can only be maintained by the presence of force and a fixed determination to crush out at once any interference with the rights of the Government by persons of high or low degree. While the exercise of prudence in inaugurating measures is essential to success, it should not be forgotten that the display of power and the exhibition of reliance on oneself have the most salutary restraining effect on men of weak minds and criminal intent. Deeply as Brigham Young hates our Government, malignant and traitorous as are his designs against it, inimical as he is against the policy here progressing of opening the mines to a Gentile populace, and desperate as he is in his fast-waning fortunes, he will pause ere he inaugurates a strife, so long as the military forces in the Territory are sufficiently numerous to hold him and his deluded followers in check. The situation of affairs in Utah is clear to my own mind, and, without presumption, I have no fear for the result, if sustained by the department commander as indicated in this and former communications. Desirous as I am of conforming strictly to the wishes and judgment of the Major-General commanding the department, and having thus fully set forth my views and the facts bearing on the case, I beg leave respectfully to ask from the department commander an expression of opinion as to the policy of the course pursued, and such suggestions or instructions as he may deem proper, as a guide in the future.

Very respectfully, your obedient servant,

P. EDW. CONNOR,

Brig.-Genl. U. S. Vol., Commanding District.

Lieutenant-Colonel R. C. Drum,

Assistant Adjutant-General U. S. A., San Francisco, California.

The reader in quest of facts is warned against accepting unreservedly as worthy of credence the reports and representations of General Connor and his coterie at this particular period. As admitted in the foregoing communication, he had a purpose in view, a certain cause to subserve. His object was to reconstruct Utah, to put the Mormons under and render the Gentiles paramount. To effect that object he strained every effort of his energetic soul; hesitating not to grossly exaggerate, not only the growth of the infant industry of mining, making it appear a very giant at its birth, when everyone knows that for years it was a mere babe in arms, never attaining to

any proportions until after the advent of the railway, but also the general condition of affairs at Salt Lake City and throughout the Territory. There was no flocking in of miners and merchants at that time, as represented by the roseate description of the military word-painter; only the same steady inpour of immigration that previous years had witnessed, and for which the Mormon people were sending five hundred teams to the frontier annually. Of course a few miners came, and a few more Gentile merchants, but there was no rapid increase of the non-Mormon population, no wondrous multiplication of Gentile stores and workshops, and the growth of the local mining interest was very, very gradual. In short, there was no "movement going on with giant strides"—at least no movement that General Connor had begun. Consequently, there was no need, even had there been any disposition on the part of the Church to utter threats against and throw obstacles in the way of "The Regenerators."* If such a disposition had existed, it is very doubtful indeed that the "firmness and determination" of the handful of volunteers at Camp Douglas, however deserving of their commander's compliment, would have overawed the entire Utah militia and "prevented a collision."

It is evident from the tone of the foregoing documents that a portion of General Connor's plan for the reconstruction of Utah was to cause to be established here a military in lieu of a civil government, with himself as the Cæsar or Napoleon of the scene. Undoubtedly this was in his heart, and would have been in his hand, if he could have induced his superiors to see eye to eye with him at this critical juncture. As it was, he almost entirely ignored the Governor and the other civil authorities. He seemed to think that all that Utah needed for her redemption was an influx of Gentile miners and merchants, and an overwhelming military force, the latter to be commanded by himself. He even went so far as to threaten that "should violence be offered, or attempted to be offered

* A self-assumed name of the anti-Mormons, quoted and applied to them in derision by those whom they desired to "regenerate."

to miners in the pursuit of their lawful occupation, the offender or offenders, one or many," would be "tried as public enemies, and *punished to the utmost extent of martial law.*"* The fact is, Connor was a born soldier, fond of fighting, and with a penchant for military surroundings. He breathed freely amid the smoke of battle, but an atmosphere of peace was stifling to his lungs and nostrils. Having sought to take part in the war then raging in the East, and being denied that privilege, he was intensely disgusted, and did all that he could to solace himself for the disappointment experienced. What more natural than that having "enlisted to fight traitors" the doughty warrior should do all in his power to carry out his design, even if imagination had to create the "traitors" whom he was determined to fight! A little later the General became much more conservative, and a great deal of his anti-Mormon animus gave way. So much was this the case that a few years afterward, when President Young was on trial before Chief Justice McKean, General Connor volunteered to go bail for the Mormon leader in the sum of \$100,000. His attitude in the summer of 1864 was due to the fact that he did not understand the Mormon people as he soon learned to understand them, and was imposed upon by men less honest and sincere in their opposition to the Saints. This much is due to General Connor, who, though not without faults, was the possessor of manly and sterling qualities.

The provost guard referred to in his letter to the War Department, was established on the 9th of July, 1864. Whether or not this was a step in the direction of his proposed military dictatorship the reader may decide. Captain C. H. Hempstead was appointed by General Connor provost marshal of Salt Lake City, and Captain Albert Brown and Company L. of the Second Cavalry, C. V., were detailed to act as the guard. They took up their quarters on July 10th in a long, low building on South Temple Street, nearly

*Quoted from a circular letter sent out from Camp Douglas by General Connor, on March 1st, 1864.

opposite the Tabernacle. Beyond the occasional arrest of some drunken "southern sympathizer," who, in order to tantalize the boys in blue, would "hurrah for Jeff. Davis" in their hearing, or the reception from the hands of the police of their own "drunks and disorderlies," who from time to time came down from Camp or strayed from their city quarters to make night hideous for peaceable people, the duties of the guard were not onerous. General Connor's representation that its establishment had roused the Mormon people to excitement and armed assembling, was altogether untrue. Probably Connor was informed that such was the case,—he speaks in one of his mining circulars of "numerous letters of complaint" that he was continually receiving—but if so, his informant was utterly unreliable. The *Deseret News*, the Church paper, barely noticed the incident, giving it as a mere matter of news without comment. And as to the Tabernacle resounding "with the most outrageous abuse of all that pertained to the Government and the Union," as the General's report also declares, the newspapers of those times, barring perhaps his own organ, the *Vedette*, make no mention of such a thing. Nor do the Federal authorities of the Territory, from the Governor down, though mostly non-Mormons, appear to have been aware of it. If they had been, the world would have heard of it. There is no evidence whatever to sustain the assertion. That the people did not deem it at all complimentary to their patriotism to place a provost guard in the city, and were wounded by the imputation of disloyalty thereby conveyed, is doubtless true. They looked upon it as an utterly needless movement, and as a standing menace to the peace and good order of the town, intended to encroach upon the authority of the civil government. But it created no excitement at all.

There was some little stir one night in August, caused by the shooting of a young man named William Vanderhoof by one of the provost guard, who with some of his comrades was endeavoring to take in charge, after beating over the head with a revolver, an intoxicated young fellow who had "hurrahed for Jeff. Davis," while they

were passing. The prisoner was attempting to escape, when the soldier fired at him, the ball missing its mark but wounding, though not fatally, young Vanderhoof, who, with hundreds of others, was emerging from the Theater at the close of the performance. The Mormon papers and the public generally, while not defending but deprecating the conduct of the inebriate whose silly shout had so exasperated the guard, denounced the brutal beating of the drunken boy and the reckless shooting into the crowd of the soldier who had arrested him. Another citizen—Mr. Theodore J. Calkin—was struck over the head with a revolver by one of the soldiers on the same occasion, though it did not appear that he had done anything to provoke the assault. This affair was the most exciting incident connected with the establishment of the provost guard in Salt Lake City. Under the circumstances it would seem that some little excitement was nothing more than natural. In about a year from the time of taking up its quarters within the city, the guard was withdrawn.

A temporary bridging of the social chasm dividing the citizens and the soldiers took place in the spring of 1865, when both sides joined with one accord in celebrating the second inauguration of Abraham Lincoln as President of the United States, and the numerous victories won for the Union in the war then drawing to a close. The movement began with a meeting of officers from Camp Douglas and many prominent citizens at Daft's Hall, Salt Lake City, on the 28th of February, when the following committees were appointed: Committee of Arrangements: William Gilbert, David F. Walker, Samuel Kahn, Lieutenant-Colonel Milo George, Captain M. G. Lewis and John Meeks; Committee on Finance, Frank Gilbert and Charles B. Greene; Committee on Exercises, Captain C. H. Hempstead, Colonel O. H. Irish (Superintendent of Indian Affairs) and Richard A. Keyes. S. S. Walker, Esq., was selected by the committee of arrangements as Grand Marshal, and he chose as his aides Richard A. Keyes, G. W. Carlton, Charles King, Thomas Stayner, Samuel Sirrine and John Paul.

The city authorities, being invited to join in the celebration,

promptly and cordially responded, naming as their committee of arrangements Hons. John Sharp, Enoch Reese and Theodore McKean. Colonel Robert T. Burton was appointed Marshal on behalf of the municipality. Chief Justice Titus had been chosen orator of the day by the Committee on Exercises appointed at the meeting, but a polite note from Captain Hempstead, chairman of that committee, invited the city's representatives to select an additional speaker for the occasion. The invitation was accepted and Hon. William H. Hooper was named as the orator to deliver the closing address.

The 4th of March came and the grand celebration took place according to the carefully prepared plan of arrangement. The procession was composed as follows: The Provost Guard, infantry, Captain W. Kettredge commanding; the Grand Marshal and his aides; the Governor of Utah and the General commanding the District; the District staff; Chaplain and Orators of the day; Federal officers, the Mayor, city and county officers; civic societies and citizens' military organizations; citizens in vehicles, on horse-back and afoot; followed by Lieutenant Colonel Milo George and staff, at the head of the 1st cavalry, Nevada Volunteers, with several detachments, infantry, artillery and cavalry, from Camp Douglas bringing up the rear. Bands of music, banners, etc., were interspersed through the procession. The entire pageant was about a mile in length. It formed at 11 a. m. at the east end of First South Street, whence it moved through the principal streets and finally drew up at the grand stand previously erected for the purpose in front of the Market. There the exercises were given. Upon the stand were Governor Doty, General Connor and staff, Chief Justice Titus, Rev. Norman McLeod, of Camp Douglas, chaplain of the day, Mayor A. O. Smoot, Hon. George A. Smith, Hon. William H. Hooper, and other prominent citizens. The program of exercises was exceedingly interesting, comprising a few introductory remarks by Captain Hempstead, an impressive prayer by the chaplain, an able and eloquent oration by Judge Titus, and a brief patriotic address by Captain Hooper. At

intervals the bands discoursed excellent music, and salutes were fired by the artillery. At the conclusion of the ceremonies the Camp Douglas troops were placed in line and marched back to the post, Colonel Burton and the citizen cavalry escorting them. The day's proceedings wound up with a banquet at the City Hall, given by the municipal authorities to the officers from Camp and other notables. General Connor could not be present, but Lieutenant-Colonel George and most of the officers from the post attended, and the occasion was one of much pleasure and interest. Among those present were Hons. John Taylor, Wilford Woodruff and George Q. Cannon, Judge Elias Smith, Judge Clinton, Colonel Burton, Major O'Neil, Mayor Smoot, John Sharp, William Jennings, Henry W. Lawrence and many more. Mayor Smoot, during the evening, proposed "the health of President Lincoln and success to the armies of the Union." This was enthusiastically responded to, and was followed by other toasts, to the Mayor and Civic Authorities of Salt Lake City, to General P. E. Connor, the Judiciary, the Army, etc., etc. In the evening the city was illuminated with fireworks, in honor of the occasion which had called forth the celebration.

General Connor, it is said, was greatly moved at sight of the tradesmen and working people who paraded the streets and cheered to the echo the patriotic sentiments uttered by the speakers. Says Mr. Stenhouse, who was present on the occasion: "He [Connor] wanted differences to be forgotten, and with gentlemanly frankness approached the author with extended hand, and expressed the joy he felt in witnessing the loyalty of the masses of the people."

The *Vedette* said, in the course of an extended description of the proceedings: "This was decidedly a notable occasion in Utah. The demonstrations were so entirely different from anything which has come within the range of our experience here, that it deserves special notice at our hands as an important event in the history of this Territory. * * * The proceedings at the City Hall were an appropriate culmination of the day's proceedings. It was free, easy, hospitable, and a most kindly interchange of loyal

sentiments among gentlemen not wont often to meet over the convivial board. Like the procession it was a union of the civil and military authorities of Utah, and passed off with eminent satisfaction to all concerned."

General Connor and his friends were evidently much surprised to find that the Mormons, whom they had deemed so disloyal, were really patriotic, and would join heart and soul in a celebration of this character. Their eyes were partly opened to the truth, and thenceforth they saw things in a somewhat different light. That they had not taken a fairer view before, was not the fault of the Mormon people, who had over and again demonstrated their loyalty by patriotic deeds as well as speeches, but the fault of those who had maligned them, and caused such men as General Connor and his associates to consider them as traitors, even before coming among them.

Soon after the event last narrated General Connor left Utah for a season. Prior to his departure a ball was given in his honor at the Social Hall by the city authorities. Some of the officers' ladies at Camp, not wishing to mingle with "Mormon women," refused to accompany their husbands to this ball, and some of the Mormon ladies, just as exclusive, would not attend and meet the "Gentile women"; but those who, putting aside prejudice and pique, were present on the occasion, described it as a very delightful affair.

A few weeks later came flashing over the wires the awful tidings of the assassination of President Lincoln. Utah in common with her sister States and Territories was stricken with sorrow, and civilians and soldiers, again uniting, as at the inaugural celebration in March, gave evidence of the sad fact in a solemn demonstration of mourning over the nation's martyr. The terrible tragedy took place, it will be remembered, on the night of the 14th of April, 1865, two days after the surrender of General Lee to General Grant at Appomattox Court House. On Saturday, the 15th, the fearful news was sent abroad, and the nation cast into the depths of affliction. All

Utah donned the garb of woe, and sincerely and deeply bewailed the death of her departed friend. Some there were, notably members of the provost guard, who momentarily indulged the thought that the citizens were secretly rejoicing over the dastardly deed which had robbed the nation of its Chief Magistrate. But the unjust suspicion was soon dispelled, and those who had entertained it were constrained to admit themselves in error. Said the *Vedette*, in vindication of the Mormon people at the time: "The merchants, bankers, saloon keepers, and all business men of Salt Lake City closed their places of business at 10 a. m. on Saturday. The flags on all the public buildings, Brigham Young's residence, stores, etc., were displayed at half mast, with crape drooping over them. Many of the principal stores and private residences were dressed in mourning. Brigham Young's carriage was driven through town covered with crape. The Theater was closed for Saturday evening, the usual night of performance, and every respect was shown for the death of our honored President. On Sunday the Tabernacle pulpit, Salt Lake City, was covered with crape, and everyone throughout the city, that is, of the right-minded class, manifested the deepest sorrow at the horrible news conveyed by the telegraph."

The *News* noted the same event in these words: "Upon the reception of the horrifying intelligence that President Lincoln had been assassinated, throughout the city business was generally suspended, flags were draped in mourning at half mast, stores and other public buildings were closed and craped, the management of the Theater announced that the bill for Saturday evening was postponed to Monday, and deep gloom palpably rested upon the minds of the citizens. On Sunday the stand and organ in the Tabernacle were clad in the habiliments of woe, as were also many of the congregation, and Elders W. Woodruff, F. D. Richards and George Q. Cannon delivered feeling and appropriate addresses upon the solemn occasion. Monday evening the proscenium and proscenium boxes of the Theater, and two large national flags arching from the center over the drop curtain, were draped in black, Alas for the times,

when our Chief Magistrate can be thus dastardly stricken down by the hand of an assassin!"

At noon on Wednesday, April 19th, the day of President Lincoln's interment, solemn public services were held at the Tabernacle in Salt Lake City. This was pursuant to the recommendations of the acting Secretary of State,—Secretary Seward having also been attacked by an assassin—and according to the desire of the citizens generally. On the 18th, at a meeting of Federal, civil and military officials, held at the office of Governor Doty, who presided, suitable resolutions had been adopted and a committee appointed to arrange for the services at the Tabernacle. This committee, consisting of Chief Justice Titus, Colonel O. H. Irish, Captain C. H. Hempstead, Colonel Robert T. Burton and Colonel J. C. Little, acted in conjunction with another committee representing the municipality, namely: Mayor A. O. Smoot, Aldermen E. F. Sheets and A. H. Raleigh, Theodore McKean and N. H. Felt, Esqs. Fully three thousand people attended the services, the Tabernacle, the interior of which was suitably hung with black, being filled to overflowing. The vast assemblage was called to order by City Marshal J. C. Little, who, at the request of Mayor Smoot, took immediate charge of the proceedings. The choir having sung an appropriate hymn, Apostle F. D. Richards offered the opening prayer. The first speaker was Apostle Amasa M. Lyman, whose address, according to the *Vedette*, was "an earnest and eloquent outburst of feeling, and appropriate to the occasion." He was followed, after the singing of an anthem, by Rev. Norman McLeod, Chaplain of Camp Douglas, who delivered an impressive and burning eulogium on the life, character and public services of President Lincoln. A benediction by Apostle Wilford Woodruff brought the funeral rites to a close.

CHAPTER VI.

1865.

SCHUYLER COLFAX IN UTAH—HIS RECEPTION AT SALT LAKE CITY—INTERVIEWS WITH BRIGHAM YOUNG—OPPOSITE OPINIONS OF POLYGAMY—AT THE THEATER AND THE BOWERY—THE COLFAX-BOWLES VIEW OF THE MORMON QUESTION—DEATH OF GOVERNOR DOTY—HONOR SHOWN TO HIS MEMORY—HON. JAMES M. ASHLEY VISITS THE TERRITORY—JULIA DEAN HAYNE AT THE SALT LAKE THEATER—ARRIVAL OF GOVERNOR DURKEE.

AN EVENT locally memorable was the visit to our Territory in the summer of 1865 of Hon. Schuyler Colfax, Speaker of the national House of Representatives, who, with a distinguished party, was on his way to the Pacific coast. The future Vice President was accompanied on this his first tour of the West by Hon. William Bross, Lieutenant-Governor of Illinois; Samuel Bowles, Esq., editor of the Springfield (Mass.) *Republican*, and Mr. Albert D. Richardson, representing the New York *Tribune*. Governor Bross was also prominent in journalism, being at that time the editor of the Chicago *Tribune*.

Utah's chief city, toward which the tourists, after a week's stay in Colorado, made their way, on learning of their approach prepared to do them honor. A telegram bearing the date of June 7th, received by the party at Fort Bridger, informed them that the municipal council of Great Salt Lake had unanimously passed a resolution tendering them the hospitalities of the city during their sojourn here, and had appointed a committee to meet them on the way and conduct them to the hotel apartments prepared for their use. This telegram was sent by the committee, namely: William H. Hooper, J. H. Jones, William Jennings and T. B. H. Stenhouse. A return telegram, signed by Mr. Colfax and dated at Fort Bridger on the 10th of June, informed the committee that their invitation was

accepted, and that the party expected to reach this city at about 8 o'clock next morning.

Accordingly, bright and early Sunday morning, June 11th, the committee of reception and others sallied forth with carriages to meet and greet the distinguished visitors. The coach containing them was encountered on the hill about a mile west of Camp Douglas, having just entered the suburbs after passing through the post, where they had been received and honored by the military. Mr. Colfax and his friends were cordially welcomed by the committee, whose chairman, Captain Hooper, after the stage and carriages had halted and all parties had descended from their vehicles and shaken hands, delivered the following address:

In tendering you, and your traveling companions, Mr. Colfax, the hospitality of our mountain home, I do so with pride, that I am able to present to you a monumental evidence of what American people can do.

Seventeen years ago, this people, the citizens of Utah, immigrated to these distant parts, and were the first to unfurl the flag of the United States, when they fixed their camp where the city now stands, and today we are surrounded with the solid comforts and with many of the luxuries of life.

While I bid you welcome, sir, we think of the many services you have rendered us, and of the great good we have derived therefrom, for we are sensible that no man has done more to establish postal facilities on the great overland route to the Pacific. No people can appreciate those services more sensibly than the citizens of Utah, for we have often passed many months in the year without any communication whatever with our parent government. You, sir, were one of the first to stretch forth your hand to remedy this evil, and now instead of waiting months for news from the East, we receive it almost daily, by means of this service; and thousands are blessed in the benefits of that great measure you have so faithfully advocated.

The great enterprise of establishing the telegraph wire across the continent, from which we have derived hourly communication with our sister States and Territories, is truly a great blessing, and to no one I am sure, Mr. Colfax, is the country indebted more than to yourself, for its erection. The active support which you gave the measure, contributed much to the establishment of the line, a medium through which time and space are nearly annihilated.

We take pride in introducing you to our city, in calling your attention to the improvements with which it is surrounded, as well as those of our settlements, reaching five hundred miles north and south and two hundred miles east and west. We take pleasure as well as pride, in alluding to our mills, wollen, cotton and paper factories, orchards, vineyards and fields of cotton and grain, and to every branch of our home industry introduced to multiply among ourselves, from the facilities which our country

offers, every means of social and national comfort and independence. We present you these as the results of our industry and of our perseverance, against almost insurmountable obstacles.

To you editorial gentlemen, who not only govern, but in a sense manufacture, public opinion, we offer a hearty welcome. We had the pleasure, some years ago, of a visit from Mr. Greeley, of the *Tribune*, who spent some time in our midst, and I can say with truth that in him we have always found a gentleman ready and willing at all times to lend his influence in the cause of human progress. In conclusion, gentlemen, I again say, welcome.

Mr. Colfax responded to the address of welcome in fitting phrase, after which came formal introductions and the reading by the city recorder, Mr. Robert Campbell, of the resolutions passed by the council, tendering to the tourists the hospitalities of the city. Mr. Colfax and his party then took seats in the carriages provided by the committee and were driven to the Salt Lake House, where rooms had been prepared for them. A bath at the Warm Springs, a visit to the Mormon Bowery in the afternoon, and to the Congregational church in the evening, completed the first day's experience of the party in Salt Lake Valley.

To behold the valley in all its loveliness, their visit could scarcely have been better timed. The trees were all abloom, flowers springing, birds singing, and the sweet breath of June, wafted from snow-crowned hills over forest, garden and farm, made delicious the atmosphere to delight the senses. Editor Bowles, who seemed to be the chief scribe of the party, and whose observations and impressions, after passing through the daily press, were published in his book entitled "Across the Continent," gave an eloquent description of the city and its surroundings and graphically set forth the main incidents connected with their visit to Utah and the whole-souled welcome extended to them by our citizens, Mormon and Gentile. Said he: "Mr. Colfax and his friends have been the recipients of a generous and thoughtful hospitality. They are the guests of the city; but the military authorities vie together as well to please their visitors and make them pleased with Utah and its people. The Mormons are eager to prove their loyalty to the government, their sympathy with its bereavement, their joy in its final triumph.

* * * Also they wish us to know that they are not monsters and murderers, but men of intelligence, virtue, good manners and fine tastes. They put their polygamy on high moral grounds; and for the rest, anyhow, are not willing to be thought otherwise than our peers. And certainly we do find here a great deal of true and good human nature and social culture; a great deal of business intelligence and activity; a great deal of generous hospitality—besides most excellent strawberries and green peas, and the most promising orchards of apricots, peaches, plums and apples that these eyes ever beheld anywhere.”

On the evening of Monday, the 12th, the Colfax party were treated to a grand serenade and demonstration of welcome from the citizens in general. About dusk the people began assembling in front of the Salt Lake House, being drawn thither by the inspiring strains of Captain C. J. Thomas' brass band, discoursing patriotic airs for the delectation of the visitors and the public. Soon appeared upon the balcony of the hotel Mr. Colfax and his friends, escorted by the city authorities. Mayor Smoot, in response to unanimous call, took the chair, and Hon. John F. Kinney, Utah's delegate to Congress, who had just returned from the east, in a few appropriate remarks introduced Mr. Colfax to the multitude. The honorable gentleman then addressed the people as follows:

FELLOW-CITIZENS OF THE TERRITORY OF UTAH: Far removed as I am tonight from my home, I feel that I have a right to call every man that lives under the American flag in this wide-spread republic of ours, by the name of fellow citizen. I come before you this evening—introduced by your delegate in so complimentary a manner, fearing that you will be disappointed by the speech to which you have to listen. I rise to speak to you of the future of this great country of ours, rather than of the past, or of what has been done for it in the progress of this great republic.

I was gratified when, on this long journey which my companions and myself are taking, we were met at the gates of your city, and its hospitality tendered to us; although I must confess I would far rather have come among you in a quiet way, traveling about, seeing your city and Territory, and making observations, without subjecting your official dignitaries to the trouble and loss of time that our visit seems to have entailed upon them, but which they insist is a pleasure. Yet when they voluntarily, and unexpectedly to us, offered us officially this hospitality, we felt that it should be accepted as promptly as it was tendered. I accept it the more cordially because I know that every one of you who knows anything

about me and my companions, is sure that, reared as we have been in a different school from what you have been, and worshipping on a different altar, we are regarded as Gentiles; yet, despite of all this, you have seen fit to request us to stop, on this journey to the Pacific, to receive the hospitalities which we have had lavished on us so boundlessly during the two days we have been in your midst. I rejoice that I came to you in a time like this, when the rainbow of peace spans our entire horizon from ocean to ocean, giving the assurance that the deluge of secession shall not again overwhelm this fair land of ours. [Cheers]. I come to you rejoicing, and I was glad to hear from my old friend, Captain Hooper, your former delegate to Congress, when he made his welcoming speech on Sabbath morning in the suburbs of your city, that you too rejoiced in the triumph of this great republic of ours over the enemies who sought to bayonet the prostrate form of liberty, and to blot this great country from the map of the world. Thank God, who rules in the heavens, who determined that what He joined together on this continent, man should not put asunder, the republic lives today, and will live in all the coming ages of the future. [Cheers]. There may be stormy conflict and peril; there may be a foreign war, but I trust not; I am for peace instead of war, whenever war can be honorably avoided. I want no war with England or France. I want the development and mighty sweeping forward of our giant republic, in its march of progress and power, to be, as it will be the commanding nation of the world, when it shall lift its head like your Ensign Peak, yon tall cliff that lifts its mighty form swelling over the valley, laughing at the rolling storm clouds around its base, while the eternal sunshine settles on its head.

* * * * *

I came here tonight, my friends, to speak to you frankly about the object of our visit in your midst. I know it is supposed, it is almost a by-word, that we of the sterner sex have adopted, that the ladies, the other sex, are the most inquisitive. Having a profound reverence for woman, for I believe that mother, wife, home and heaven are the four noblest words in the English language, I have never believed this to be true; but from long experience and observation, am persuaded that our own sex is quite as inquisitive as the other. I can give you some proof of this: there has not been a single lady in Salt Lake City that has asked, "what have you come out here for?" While there have been several gentlemen who have inquired, very respectfully it is true, "what was the object of your coming to Utah?" [Cheers and laughter.] Now I am going to tell you frankly all about it, so that your curiosity shall be entirely allayed.

I will begin by telling you what we did not come for. In the first place, we did not come here to steal any of your lands and possessions, not a bit of it. In the second place we did not come out here to make any remarkable fortune by the discovery of any gold or silver mines just yet. In the third place we did not come out here to take the census of either sex among this people, and to this very hour I am in blissful ignorance as to whether the committee that met me in the suburbs of the city, are, like myself, without any wife, or whether they have been once or twice married, except your two delegates to Congress—they told me they only had a wife apiece. [Laughter.] In the fourth place, we did not come out here to stir up strife of any character; we came here to accept the hospitality of everybody here, of all sects, creeds and beliefs who are willing to receive us, and we have received it from all. Well, now, you see we could not have any ulterior design in coming here. * * * * *

Now, you who are pioncers far out here in the distant west, have many things that you have a right to ask of your government. I can scarcely realize, with this large assembly around me, that there is an almost boundless desert of 1,200 miles between myself and the valley of the Mississippi. There are many things that you have a right to demand; you have created, however, many things here for yourselves. No one could traverse your city without recognizing that you are a people of industry. No one could look at your beautiful gardens, which charmed as well as astonished me, for I did not dream of any such thing in the city of Salt Lake when I came here, without realizing that you, or many of you, are a people of taste. If anybody doubts that, I think that one of your officers on the hill, who turned us loose into his strawberries today, realized that he had visitors of taste. [Cheers and laughter.] I regret yet that I left it; but I was full, and the truth is I was too full for utterance, therefore I cannot make much of a speech tonight.

In the first place, to speak seriously, coming out here as you had, so far from the old States, you had a right to demand postal communication. I heard something that surprised me, it must be an exaggeration of the truth—that at one time in your early settlement of this place, you were so far removed from postal communication, that you never heard of the nomination of President Pierce until he was elected and inaugurated as President. [A voice, "That's so."] That was some six or eight months—that was a slow coach, and I don't see how any one who had been in the habit of reading a newspaper ever could get along at all; he must have read the old ones over and over again.

It happened to be my fortune in Congress to do a little towards increasing the postal facilities in the west; not as much as I desired, but as much as I could obtain from Congress. And when it was proposed, to the astonishment of my fellow-members, that there should be a daily mail run across these pathless plains and mighty mountains, through the wilderness of the west to the Pacific, with the pathway lined with our enemies, the savages of the forest, and where the luxuries and even the necessaries of life in some parts of the route are unknown, the project was not considered possible; and then, when in my position as chairman of the post office committee, I proposed that we should vote a million dollars a year to put the mail across the continent, members came to me and said, "You will ruin yourself." They thought it was monstrous—an unjust and extravagant expenditure. I said to them, though I knew little of the west then compared to what I have learned in a few weeks of this trip, I said, "The people on the line of that route have a right to demand it at your hands, and in their behalf I demand it." [Cheers.] Finally the bill was coaxed through, and you have a daily mail running through here, or it would run with almost the regularity of clockwork, were it not for the incursions of the savages. * * * * *

You had a right to this daily mail, and you have it. You had a right, also, to demand, as the eastern portion of this republic had, telegraphic communication—speeding the messages of life and death, of pleasure and of traffic; that the same way should be opened by that frail wire, the conductor of Jove's thunderbolts, tamed down and harnessed for the use of man. And it fell to my fortune to ask it for you; to ask a subsidy from the government in its aid. It was but hardly obtained; yet now the grand result is achieved, who regrets it,—who would part with this bond of union and civilization?

There was another great interest you had a right to demand. Instead of the slow, toilsome and expensive manner in which you freight your goods and hardware to this distant Territory, you should have a speedy transit between the Missouri Valley and this intermountain basin in which you live. Instead of paying two or three prices,—sometimes overrunning the cost of the article,—you should have a railroad communication, and California demands this. I said, as did many others in Congress, “This is a great national enterprise; we must bind the Atlantic and Pacific States together with bands of iron; we must send the iron horse through all these valleys and mountains of the interior, and when thus interlaced together, we shall be a more compact and homogeneous republic.” And the Pacific Railroad bill was passed. This great work of uniting three thousand miles, from shore to shore, is to be consummated; and we hail the day of peace, because with peace we can do many things as a nation that we cannot do in war. This railroad is to be built—this company is to build it; if they do not the government will. It shall be put through soon; not toilsomely, slowly, as a far distant event, but as an event in the decade in which we live. * * * * *

And now, *what has the government a right to demand of you?* It is not that which Napoleon exacts from his officers in France,—which is allegiance to the constitution and fidelity to the emperor. Thank God, we have no emperor nor despot in this country, throned or unthroned. Here every man has the right, himself, to exercise his elective suffrage as he sees fit, none molesting him or making him afraid. And the duty of every American citizen is condensed in a single sentence, as I said to your committee yesterday,—not in allegiance to an emperor, but *allegiance to the constitution, obedience to the laws, and devotion to the Union.* [Cheers.] When you live to *that* standard you have the right to demand protection; and were you three times three thousand miles from the national capital, wherever the starry banner of the republic waves and a man stands under it, if his rights of life, liberty and property are assailed, and he has rendered *this* allegiance to his country, it is the duty of the government to reach out its arm, if it take a score of regiments, to protect and uphold him in his rights. [Cheers.]

I rejoice that I came into your midst. I want to see the development of this great country promoted. I would now touch on a question which I could allude to at greater length—that is about mining—but I find that our views differ somewhat with the views of some whom you hold in great respect here, therefore I will not expand on this subject as in Colorado or Nevada. But I would say this, for the truth compels me to say it. That this great country is the granary of the world everybody acknowledges, at home and abroad. When five of the States of the Northwest produce three hundred and fifty million bushels of grain per year—when you can feed all your own land, and all the starving millions of other lands besides, with an ordinary crop, then you are indeed the granary of the world. But this country has a prouder boast than that—it is the treasury of the world. God has put the precious metals through and through these Rocky Mountains, and all these mountains in fact, and I only say to you that if you, yourselves, do not develop it, the rush and tide of population will come here and develop it and you cannot help it. [Cheers.] The tide of emigration from the old world, which even war with all its perils did not check, is going to pour over all these valleys and mountains, and they are going to extend the development of nature, and I will tell you if you do not want the

gold they will come and take it themselves. [Cheers.] You are going to have this Territory increase in population, then there will not be much danger about this State matter.

Now, with the bright stars looking down upon us here, as they do on our friends in distant States, I thank you for the kind attention with which you have listened to me; and while I hold the stand I ask you to join with me, if you will, in three hearty hurrahs for that Union which is so dear to our hearts, the very ark of our covenant, which may no unhallowed hand ever endanger in the centuries yet to come.

Three tremendous cheers were given in response to the request, after which came "three cheers for Colfax," as heartily rendered.

Lieutenant-Governor Bross followed in an eloquent and whole-souled tribute to the pioneers and early settlers of the Territory. Said he in the course of his speech:

I have always been a western man, though living down east. I have always felt that the west was soon to be the center of wealth and power to this great nation. When but a boy I studied its geography; when I grew to manhood I studied its resources; now I am here to witness with my own eyes what American enterprise can do in the center of the continent. And representing as I do the great State of Illinois, that state that can furnish food for the nation, and that city that sits as a queen at the head of Lake Michigan, ready with open arms to grasp the wealth of this north-west, and to pour back her wealth upon it, I feel here tonight as if I had an interest in you, and in the progress and development of this Territory and every other Territory between the lakes and the Pacific. And whatever I can do, as editor of what is recognized as one of the chief newspapers in the city of Chicago, to advance the interests of this north-west, you may calculate I shall do for your benefit. [Cheers.]

Among those things which I shall advocate is the necessity of the further development and the pushing forward of those great lines of communication which are to make us neighbors; and then, instead of rolling along in one of Mr. Holladay's fine coaches, for fine they certainly are, with our good friend Otis, I expect to have him by the hand, and taking our seat in the cars, come to Salt Lake City to eat strawberries with you in the short space of three days. [Cheers.]

I say, therefore, go on developing this valley as you have done. Build your canal from Utah Lake, cut your canal the other side of Jordan; they say it is a hard road to travel, but I have not found it so. Cut your canals and water this whole land, that it may bud and blossom and bring forth abundantly. I have seen here such an evidence of wealth, cultivation and progress as would surprise any man, let him come from where he will; even if he be a western man, it will surprise him.

So far as the railroad is concerned, and my friend Colfax has run the engine pretty well, I want to say to you, that we here, connected with the newspapers back east, I and

my associates of the quill, will do all that we can do; we will concentrate our energies for the accomplishment of that great enterprise, to push it through to the Pacific—we will do all we can for you, we will do all we can to lessen the expense, the vast expense, of drawing your goods all the way from the Missouri to Salt Lake City. You want the railroad—you want it for its intelligence; you want it from the fact that it mixes up a people and enlightens them, and gives them broader and more liberal views. It will place within your reach here many of the facilities and conveniences of life now enjoyed by other sections of the nation. I say, my fellow citizens, let us all feel, in the great work of developing this continent, that each one must do his share.

I will say here, and even hereafter, that, so far as you citizens of Utah are concerned, you have done your full share in developing the resources of this Territory. [Cheers.] If seventeen years, that is the exact time you have been here, has accomplished what it has, what will not the seventeen years to come accomplish, or a quarter or half a century, for this magnificent valley? You will have these hills swarming with denizens of New York and Chicago—gentlemen coming to spend the summer angling on the lakes, and to see what wonders you have developed among the mountains, as we are doing in our stay during the week. Tomorrow we go down to Salt Lake, to enjoy ourselves the best possible. And when we go home, we will tell the people what we have seen. We are accustomed to tell the truth. The newspaper is not what it once was. We hold this, that the truth in a newspaper is as essential to its success, as is the truth in social life, [cheers] and that nothing but the truth, plainly told, will tell on the interests of this Territory and of this great north-west, and so far as I am concerned I will tell nothing but the truth about you. [Cheers.]

Now passing over the things in which we differ, leaving time and circumstances to bring us together, let me say that I believe in the great principles that our Creator has established. I believe that the principles of commerce, the principles of our holy religion, will in the end fuse mankind together and make us all love each other as brothers. [Cheers.] I believe in a higher civilization, in a higher Christianity, being developed in the progress of human events, and such as shall make all men feel that all men are brothers. [Cheers.]

Mr. Richardson, of the New York *Tribune*, made the final address of the evening, from which we will also quote a few passages. Said the associate of the great Greeley:

There is to be a tide of migration towards the west, such as the world has never seen before—there is to be a rapid development, such as the world has never seen before. There are boys here tonight who are to see the great regions of the west, from the Alleghanies to the Pacific, teeming with the life of a hundred millions of people. There are old men here tonight who will live to see the accomplishment of that grandest of material enterprises—such a one as the world has never seen—the Pacific Railroad, to see people from New York and San Francisco, London and China, stopping on the great plains to exchange greetings and newspapers, while their respective trains are stopping for breakfast.

It is not only in the grand material development of the country—the building of cities and railroads, the commerce on the river, the establishment everywhere of farms, that the greatest pride of American development is to consist, but that, by and by, when all these mingling and divers nationalities are blended into one, America is to give the world the best men, the highest average men, the most intelligent men, of the purest integrity, of the most varied accomplishments, that the world has ever seen.

But what is all this specially to you? In my judgment it is a great deal—it is everything, because your location is in the very heart, the very focal point of the new States which are to spring up here. Here is the line of travel, here are the fields of settlement, here is the path of empire. Here is such a site for a city as no commercial metropolis in the whole world occupies. I am dazzled at the thought of the future which may be before it, and of the future which may be before your people.

It is with the profoundest interest that, during the few days that I have been in your Territory, I have been studying its features and its developments. I have been in many of your ranches, in your green fields, in many of your gardens, your residences, your business houses, and I have looked with wonder at the almost miracles you have performed in the few years you have been here. And I will tell you, gentlemen, what the development which I have seen means, what it means to me. When I think of the vast labor you had to perform, of that terrible journey from the river here, and when I see what you have done, I am full of wonder and admiration; they mean to me industry; they mean to me integrity and justice in your dealings with each other. [Cheers.] Because I know enough of pioneer life, I know enough from practical observation and experience of the difficulties that environ and constantly beset new communities, to know this could not have been done by an idle people, by a volatile people, by a people who do not deal fairly and justly among themselves and with each other.

I wish I could paint your coming horizon; I wish I could cast the horoscope of your future; but I think it cannot be many years before the new star of Utah will sail up our horizon to take her place among the other members of our American constellation, [cheers] which we fondly hope, like the stars that light us tonight, shall "haste not nor rest not, but shine forever."

Next day the Colfax party were taken to the Great Salt Lake, where they experienced the luxury of a bath in its wonderful waters.

But by far the most interesting incident of their visit to Utah was the interview, or interviews, that took place between Schuyler Colfax and Brigham Young. It goes without saying that the honorable Speaker of the House of Representatives was desirous of meeting the Mormon leader. Everybody, high or low, who came to Utah in those days, and as long as he lived, desired to meet him. But Mr. Colfax was too great a man, or not great enough—opinions will differ as to which—to condescend to call upon the President, and in all probability would have gone away ungratified in this

respect rather than have sacrificed his dignity to his curiosity. But Brigham Young, not being troubled with dignity of that sort, on learning that the Mountain did not intend coming to Mahomet, good-naturedly humored Mr. Colfax and went to him. President Heber C. Kimball, Apostles John Taylor, Wilford Woodruff, George A. Smith, Franklin D. Richards, George Q. Cannon, Hons. John F. Kinney, J. M. Bernhisel, W. H. Hooper, Mayor Smoot, Marshal Little, and others went also to call upon the honorable gentleman. They were courteously received by Mr. Colfax and his friends, and besides these, Bishops John Sharp and L. W. Hardy, Messrs. William Jennings, John W. Young, N. H. Felt and George D. Watt, were present at this interview. It lasted for two hours, and after the "ice had been broken" was of a very pleasant character.

A trip to Rush Valley, to view certain mining operations in that vicinity, was made by the Colfax party, after which they were entertained successively at the hospitable homes of Hon. William H. Hooper and William Jennings, Esq. A dinner was given in their honor by Mr. Jennings on Saturday the 17th of June. There were present, besides the host and his family, Mr. Colfax, Messrs. Bross, Richardson and Bowles, Presidents Young and Kimball, Apostles George A. Smith and George Q. Cannon, Hons. J. F. Kinney and William H. Hooper, Colonel Irish, Mayor Smoot, Marshal Little, and Messrs. Charles H. Hapgood, John W. Young, J. F. Tracy, H. S. Rumfield and T. B. H. Stenhouse.* Later in the evening the party attended the Theater, where the visitors were delighted, not only with the fine structure, the size and magnificence of which astonished them, but with the entertainment placed upon the boards

* Says Mr. Bowles in his letters: "A dinner to our party this evening by a leading Mormon merchant, at which President Young and the principal members of his council were present, had as rich a variety of fish, meats, and vegetables, pastry and fruit, as I ever saw on any private table in the east; and the quality and the cooking and the serving were unimpeachable. All the food, too, was native in Utah. The wives of our host waited on us most amicably, and the entertainment was, in every way, the best illustration of the practical benefits of plurality that has yet been presented to us."

for their especial benefit. Mr. Bowles thus dilates upon the subject: "We were presented to another and perhaps the most wonderful illustration of the reach of social and artificial life in this far off city of the Rocky Mountains. This was the Theater, in which a special performance was improvised in honor of Speaker Colfax. The building is itself a rare triumph of art and enterprise. No eastern city of one hundred thousand inhabitants,—remember Salt Lake City has less than twenty thousand,—possesses so fine a theatrical structure. It ranks, alike in capacity and elegance of structure and finish, along with the opera houses and academies of music of Boston, New York, Philadelphia, Chicago and Cincinnati. In costumes and scenery it is furnished with equal richness and variety, and the performances themselves, though by amateurs, by merchants and mechanics, by wives and daughters of citizens, would have done credit to a first class professional company. * * * I have rarely seen a theatrical entertainment more pleasing and satisfactory in all its details and appointments.† * * * The house was full in all its parts, and the audience embraced all classes of society, from the wives and daughters of President Young—a goodly array—and the families of the rich merchants to the families of the mechanics and farmers of the city and valley, and the soldiers from Camp."

In the early part of this day—June 17th—had occurred the second and most important interview between Speaker Colfax and President Young, the former with his friends calling at the office of the President, where the interview took place in the presence of the leading Church dignitaries. The conversation was opened by the Mormon leader, who inquired of Mr. Colfax what the Government and the people in the east proposed doing with polygamy and the

† The pieces presented were "Camilla's Husband" and "Magic Toys," in the former of which Mr. David McKenzie and Mrs. L. Gibson impersonated the principal characters. Dunbar, the comic vocalist, also appeared, as did Miss Alexander, the danseuse. "Magic Toys" included an illuminated tableau and a chaste and beautiful ballet.

Mormons, now that they had got rid of the slavery question? Mr. Colfax replied that he had no authority to speak for the Government; but for himself, if he might be permitted to make the suggestion, he had hoped that the prophets of the Church would have a new revelation on the subject, which should put a stop to the practice. As the people of Maryland and Missouri, without waiting for the action of the general government against slavery, themselves believing it wrong and an impediment to their prosperity, had taken measures to abolish it, so he hoped that the people of the Mormon Church would see that polygamy was a hindrance and not a help, and move for its abandonment. President Young responded, defending the plural-wife practice on scriptural grounds, and declaring that God had in this day especially commanded it. At the same time he admitted that the principle had been abused, and that some had entered into it who ought not to have done so. When rightly practiced, however, he maintained that it was not only biblical, but had, within proper limits, a sound moral and philosophical reason and propriety. In the course of the discussion that followed, which, according to Mr. Bowles, was "general and sharp though very good-natured," President Young asked Speaker Colfax if the Government, in the event of polygamy being given up, would not demand more—would not attack the Book of Mormon and make war upon the Church organization? "No," was the emphatic reply, "it has no right and could have no justification to do so. We have no idea that there would be any disposition in that direction." Mr. Colfax and his friends stated in conclusion that they hoped the polygamic question might be removed from existence, and thus all objection to the admission of Utah as a State be taken away; but that until it was, no such admission was possible, and the Government could not continue to look indifferently upon the enlargement of so offensive a practice.

Next day—the Sabbath—the visitors attended the services at the Bowery, President Young, at their request, having consented to deliver a discourse upon "the distinctive doctrines of Mormonism."

The sermon did not please Mr. Colfax and his friends. Neither did it suit at all the assembled Saints. In fact, it did not do the speaker or the subject any sort of justice, and everybody present was disappointed. The President, for some reason, was not half himself; evidently being hampered instead of helped by the presence of the visiting party, and doubtless more than all by the thought, so fatal to eloquence, that he was expected to say something "out of the common." His effort was regarded by his own friends, the Apostles, Bishops and Elders around him, as a flat failure, as "the worst sermon that he ever preached," and the strangers naturally drew the inference that Brigham Young, while "a shrewd business man, an able organizer of labor, a bold, brave person in dealing with all the practicalities of life," was "in no sense an impressive or effective preacher." Such was the verdict of the critic Bowles, the literary spokesman of the party.

But the conclusion was far from correct. No orator should be judged by his poorest effort; nor is it possible that a public speaker can be always "at his best." Who has not seen actors upon the stage, though possessing genius of the highest order, play so poorly at times as not only to disappoint the expectant public, assembled to witness them in their best creations, but almost to deserve hissing? And who has not seen the same artists on other occasions, when conditions were more favorable, or they were "put upon their mettle" by the prod of candid criticism, fairly electrify their audiences in the same impersonations? There is no mystery about the matter. The tide of human effort and achievement, like any other tide, has its ebbs as well as its flows. Brigham Young, it is true, was not an orator,—few men are upon whom that exalted title is so carelessly bestowed,—but he certainly was, Mr. Bowles to the contrary notwithstanding, an impressive and effective preacher. We mean, of course, when Brigham Young was at his best. Mr. Bowles and his friends only heard him once, and when, from all accounts, he was at his worst. Hence their verdict is not to be accepted as final.

Later in the day the eloquent Mr. Colfax delivered at the same place, by invitation of the Church and city authorities, his eulogy on the Life and Principles of President Lincoln. Of course this masterly oration, previously delivered in Chicago, and now read from manuscript,* far outshone the extemporaneous "remarks" of the Mormon President; as far, no doubt, as the life and works of Brigham Young, the greatest of American colonizers, will outshine in the history of his country, when it comes to be impartially written, the life and works of Schuyler Colfax, the eloquent and erudite orator and statesman. A hearty vote of thanks was tendered the speaker at the close of his able address, which was listened to by an immense audience with the most respectful and profound attention.

Monday morning, June 19th, saw the Colfax party on their way westward. "Adieu," wrote Editor Bowles, "to Salt Lake and many-wife-and-much-children-dom; its strawberries and roses; its rare hospitality; its white-crowned peaks; its wide-spread valley; its river of scriptural name; its lake of briniest taste. I have met much to admire, many to respect, worshiped deep before its nature,—found only one thing to condemn. I shall want to come again when the railroad can bring me, and that blot is gone."

"That blot" of course was polygamy, which much offended the Massachusetts editor, who reflected in his writings the sentiments of Speaker Colfax, to whom in due time was dedicated the Bowles book entitled "Across the Continent."† The views therein expressed as to the proper method of dealing with the Mormon problem, a few years later found vigorous administrative effect when Schuyler Colfax became Vice President of the United States, and the trusted and

* So says the *Deseret News*. Mr. Bowles states that he spoke without notes. The *News* says that Mr. Colfax remarked that such was his custom, but that his relations with the deceased President "had been so close that he had not dared speak of him except from the manuscript which he read."

† In the dedication of "Across the Continent," Mr. Bowles says to Mr. Colfax: "The book is more yours than mine."

confidential adviser of the nation's powerful chief—Ulysses S. Grant.*

On Tuesday, June 13th, while the Colfax party were still in Salt Lake Valley, occurred the much lamented death of Hon. James

* Says the Colfax-Bowles publication of the Mormon people: "The result of the whole experience has been to increase my appreciation of the value of their material progress and development to the nation; to evoke congratulations to them and to the country for the wealth they have created, and the order, frugality, morality and industry that have been organized in this remote spot in our continent; to excite wonder at the perfection of their Church system, the extent of its ramifications, the sweep of its influence; and to enlarge my respect for the personal sincerity and character of many of the leaders in the organization; also, and on the other hand, to deepen my disgust at their polygamy, and strengthen my convictions of its barbaric and degrading influences. * * *

Nothing can save this feature of Mormonism but a new flight and a more complete isolation. A kingdom in the sea, entirely its own, could only perpetuate it; and thither even, commerce and democracy would ultimately follow it. The click of the telegraph and the roll of the overland stages are its death rattle now; the first whistle of the locomotive will sound its requiem; and the pickaxe of the miner will dig its grave. * * *

"The Government should no longer hold a doubtful or divided position towards this great crime of the Mormon Church. Declaring clearly both its want of power and disinclination to interfere at all with the Church organization as such, or with the latter's influence over its followers, assuring and guaranteeing to it all the liberty and freedom that other religious sects hold and enjoy, the Government should still, as clearly and distinctly, declare, by all its action, and all its representatives here, that this feature of polygamy, not properly or necessarily a part of the religion of the Mormons, is a crime by the common law of the nation, and that any cases of its extension will be prosecuted and punished as such. Now half or two-thirds the Federal officers in the territory are polygamists; and others bear no testimony against it. These should give way to men who, otherwise equally Mormons it may be, still are neither polygamists nor believers in the practice of polygamy. No employes or contractors of the Government should be polygamists in theory or practice. Here the Government should take its stand, calmly, quietly, but firmly, giving its moral support and countenance, and its physical support if necessary, to the large class of Mormons who are not polygamists, to missionaries and preachers of all other sects, who choose to come here, and erect their standards and invite followers, and to that growing public opinion, here and elsewhere, which is accumulating its inexorable force against an institution which has not inaptly been termed a twin barbarism with slavery. There is no need and no danger of physical conflict growing up; only a hot and unwise zeal and impatience on the part of the Government representatives, and in the command of the troops stationed here, could precipitate that. The probability is, that, upon such a demonstration by the Government, as I have suggested, the leaders of the Church would receive new light on the subject themselves, perhaps have a fresh revelation, and abandon the objectionable feature in their polity."

Duane Doty, Utah's fifth governor. His demise was caused by violent internal pains which had seized him several days previously. After a week's severe illness, during most of which time he was confined to his room, death put an end to his sufferings. The deceased was in his sixty-sixth year, having been born in New York on the 5th of November, 1799. Prior to coming west he had resided in Wisconsin, of which, while it was yet a Territory, he had been Delegate to Congress and subsequently Governor. His official record in Utah has already been noticed. As Superintendent of Indian Affairs and as Governor of the Territory, Mr. Doty faithfully and efficiently discharged his duty to the Federal Government and at the same time won the love and respect of all our citizens. His was an open and affable nature, which could not fail to win the hearts of those with whom he came in contact. He was deeply and sincerely mourned throughout Utah, a general cessation of business, with flags draped and flying at half mast until after the funeral, testifying something of the esteem and honor in which he had been held. The obsequies preceding the burial were held at the executive residence on Thursday, June 15th, at 10 a. m., Rev. Norman McLeod officiating. The casket was borne to the hearse by Hon. Schuyler Colfax, Governor Bross, Chief Justice Titus, Associate Justice Drake, Superintendent Irish and U. S. Marshal Gibbs.* The remains, followed by a vast concourse of citizens, preceded by civil and military officials, were conveyed to the Camp Douglas cemetery, where, after further ceremonies, they were reverently consigned to mother earth.

Less than three weeks later there arrived at Salt Lake City another distinguished visitor,—Hon. James M. Ashley, of Ohio, Chairman of the Committee on Territories of the House of Representatives. He was just in time to witness and participate with the citizens in their customary grand celebration of the 4th of July. After the oration of the day, which was delivered by Hon. George Q.

* Judge Waite by this time had retired from the Territory. He was succeeded in office in 1864 by Associate Justice Solomon P. McCurdy, of Missouri.

Cannon, Secretary of the State of Deseret,* Mr. Ashley by invitation addressed the people. He stated that it was very far from his thoughts on entering the city at half past one o'clock in the morning that he should meet so large an assemblage of his fellow citizens celebrating the anniversary of American freedom, or that he would be asked to say a word. He knew something of the past history of the Saints, both in the east and since they had established themselves in the Rocky Mountains, and for what they had done here the people of the nation should feel under great obligations to them. For the patriotic demonstration that he was witnessing, on the part of the loyal people of the United States he thanked them. He did not come, he said, to make a 4th of July oration, but simply to look at this Territory, which for six years he had had charge of as Chairman of the House Committee on Territories. He hoped to become acquainted with Utah's leading citizens, as well as with those of the other Territories that he purposed visiting, in order that he might better understand their wants than he was able to do at a distance. He complimented Utah's delegates in Congress, and concluded with these words: "Whatever may be our peculiar views, let us maintain the principles of the Declaration that has just been read, and the oration that has been pronounced, and make this nation what it ought to be, the freest, mightiest and most glorious on the earth."

At this celebration the name of Hon. William H. Hooper was put forward by Hon. George A. Smith as Utah's next delegate to Congress. The vote taken was unanimous. Mr. Hooper, who had previously been nominated for delegate, was elected on the first Monday of the ensuing August. Like his predecessor, Judge Kinney, Captain Hooper was a Democrat.

During Mr. Ashley's stay in Salt Lake City an interview was arranged between him and President Young. It took place in the parlors of Hon. William H. Hooper. "Well, Mr. Ashley," said the

* The official organization of the State of Deseret had been formally kept up since the election of 1862, and was continued for about ten years later. Governor Young's messages were regularly presented to the General Assembly, which adopted as its own the laws passed by each session of the Territorial Legislature.

President, referring to the recent visit of the Colfax party and their views respecting plural marriage, "are you also going to recommend us to get a new revelation to abolish polygamy, or what are you going to do with us?"

"Now, Mr. President," answered Ashley, with a mirthful twinkle in his eye, "I don't know what we can do with you. Your situation reminds me of an experience of Tom Corwin's. In the days of Tom's poverty, somewhere in Ohio, he thought he would hang out a lawyer's shingle and catch a share of business. One day a smart fellow solicited his legal services; he wanted Tom to defend him, and proposed to give him a fee of fifty dollars. That was a big sum to Tom then; but when he heard the situation of his client he stated that he was under professional obligations to say he could be of no service to him. The client insisted that Tom should make a speech in court, and that was all he wanted. The case came on, the evidence was clear, witnesses had seen the prisoner steal some hams, carry them to a house, and there the hams were found in the client's possession. It was a clear case of theft, the evidence was incontestible, and the prosecutor thought it needless to address the jury. The defendant, however, insisted that Tom should make his speech. A brilliant effort was made, the jury retired, and in a few minutes returned with a verdict of 'not guilty.' The judge, the prosecutor and Tom were perfectly confounded. They glanced at each other a look of inquiry. Nothing more could be done, and the prisoner was discharged. As they retired from the court the lawyer said to the thief, 'Now, old fellow, I want you to tell me how that was done!' 'Your speech did it,' was the reply. 'No, it didn't, and I want to know how *you* did it?' 'Well, if you will not speak of it till I get out of the State, I shall tell you.' Tom acceded to this, and in perfect confidence his client whispered: 'Well, *eleven of the jurors had some of the ham.*'"

"Brigham roared and laughed," says Mr. Stenhouse, who was one of the company present at the interview. "With a Mormon jury, some of them doubtless polygamists, the institution was per-

fectly secure.”* Possibly a similar jest might have been passed with equal propriety at the expense of some of the Congressmen who voted for the anti-polygamy law of 1862. Not that their act was at all similar to that of Corwin’s jury. That they “had some of the ham” regarding which they were supposed to be legislating, is very probable, but this did not deter them from taking virtuous action against the “much-married Mormons.” Full many a man

“Compounds for sins that he’s inclined to,
By damning those he has no mind to.”

The next notable arrival in Utah was that of the celebrated actress, Julia Dean Hayne, to whom reference was made in a former chapter. Mrs. Hayne came with the Potter troupe from California, via Idaho, arriving at Salt Lake City on the 5th of August. She was on her way to New York, her early home, after an absence of several years in the west, but tarried in Utah, where she became the reigning queen of the Salt Lake stage. Her first appearance at the Theater was on the night of August 11th, 1865, in her great impersonation of “Camille.” She quickly captured all hearts and swayed undisputed sceptre over the affections as well as the unbounded admiration of the people. Her fame as an actress was national before she came west; but in no part of the country was she more esteemed and admired than in Utah, where she wrote her name indelibly on the hearts of all the citizens, and forever linked her life with the history of our inter-mountain commonwealth.

On the occasion of her first farewell to Salt Lake City, June 30th, 1866,—when it was supposed that she would not return, though she afterwards did,—Mrs. Hayne, from the stage, made the following pretty and tender speech to her admiring auditory:

* Mr. Ashley, a few years later, introduced a bill into Congress “to extend the boundaries of the States of Nevada, Minnesota and Nebraska, and the Territories of Colorado, Montana and Wyoming.” This meant the partition of Utah among her neighbors, the contiguous States and Territories. The proposition did not meet with much favor, and the bill was defeated, its death-blow being given by Utah’s delegate, Hon. William H. Hooper, in a masterly speech delivered in the House of Representatives, February 25th, 1869.

LADIES AND GENTLEMEN: It is but seldom I lose the artist in the woman, or permit a personal feeling to mingle with my public duties; yet, perhaps, in now taking leave I may be pardoned if I essay to speak of obligations which are lasting. If, during my lengthened stay within your midst, some trials have beset my path, many kindnesses have cheered the way, the shafts of malice have fallen powerless, and the evil words of falser hearts have wasted as the air. And perhaps in teaching me how sweet the gratitude I owe these friends, I should almost thank the malignancy which called their kindness forth. For such, believe me, memory holds a sacred chamber where no meaner emotion can intrude.

To President Young, for very many courtesies to a stranger, lone and unprotected, I return those thanks which are hallowed by their earnestness; and I trust he will permit me, in the name of my art, to speak my high appreciation of the order and beauty that reign throughout this house.

I would the same purity prevailed in every temple for the drama's teachings. Then indeed the grand object would be achieved, and it would become a school,

"To wake the soul by tender strokes of art,
To raise the genius and to mend the heart."

But I speak too long, and pause—perhaps before the last farewell,

"A word that has been and must be,
A sound which makes us linger,
Yet, Farewell!"

On the 30th of September, 1865, Hon. Charles Durkee, of Wisconsin, who had been appointed to succeed the lamented Doty as Governor of Utah, arrived at Salt Lake City. He took the oath of office and entered upon the discharge of his duties on the 3rd of October. An effort had been made to secure the gubernatorial chair for Colonel O. H. Irish, the efficient and popular Superintendent of Indian Affairs, and in June, a few days after the death of Governor Doty, a petition had been signed by many leading citizens and forwarded to President Johnson, asking for the Colonel's appointment. The request was denied, much to the general disappointment, but Governor Durkee received a cordial welcome, and proved an acceptable official. He continued in office till the close of his term.

CHAPTER VII.

1866.

THE BRASSFIELD MURDER—MORMON AND GENTILE VIEWS OF THE HOMICIDE—GENERAL HAZEN'S SUGGESTION—GENERAL SHERMAN'S TELEGRAM TO PRESIDENT YOUNG—THE MORMON LEADER'S REPLY—GENERAL BABCOCK'S TOUR OF INSPECTION—HIS REPORT OF THE SITUATION—THE MURDER OF DR. ROBINSON—BITTER FEELING BETWEEN MORMONS AND GENTILES—NON-MORMON MERCHANTS OFFER TO LEAVE UTAH ON CERTAIN CONDITIONS—PRESIDENT YOUNG DECLINES THE PROPOSITION.

AT Salt Lake City, during the year 1866, occurred what are known as the Brassfield and Robinson murders. Both crimes were committed by unknown persons, and both victims were prominent Gentiles. Owing to these facts and other circumstances surrounding the cases, it was believed by the Gentile portion of the community that the deeds were done by Mormons. Some went so far as to charge them upon the Mormon Church, assuming that the two men had incurred the ill-will of some person or persons "high in authority," who had therefore instigated and authorized the assassinations.

This extreme view,—similar to that taken by anti-Mormons in relation to the Mountain Meadows massacre and other crimes,—was probably entertained by most of the Gentiles then in Utah.* The

* Brevet Major-General Hazen was in Salt Lake City during October of this year. In a report of his visit furnished to Hon. John Bidwell of the House of Representatives, the General says: "I found Brigham Young a man of remarkable shrewdness, administrative ability and information. * * * My interview with him was pleasant, he talking freely upon all his plans. He has the past season constructed a line of telegraph to every village in Utah, and is ready to build several hundred miles of the Union Pacific railroad. * * * I found at Salt Lake City about three hundred of our own people, whom they term Gentiles, nearly all traders. They had established a church, a newspaper and a school. * * * At the time of my visit they were

Mormon view of the matter was that the murders were committed by personal enemies of the victims, and that the question of Mormon and Gentile had nothing whatever to do with the deeds. Many there were, both Mormons and non-Mormons, who believed that Brassfield had merited his fate. But by none was the Robinson murder excused. It was denounced by all as a most dastardly crime, and Mormons and Gentiles vied with each other in deploring and denouncing it, and striving to discover and bring to justice its perpetrators. Among the first to offer a reward for the apprehension of Dr. Robinson's murderers, was President Brigham Young. But let the facts speak for themselves. They are as follows,—referring now to the Brassfield affair:

S. Newton Brassfield, of Austin, Nevada, had come to Utah about three months prior to his death, for the purpose of engaging in the then lucrative business of freighting, between Salt Lake City and that point. He spent some time at American Fork and then came to Salt Lake. Becoming enamored of a Mrs. Hill, the plural wife of a Mormon Elder, who was then on a mission in Europe, he persuaded her to forsake her husband and contract an alliance with himself. This marriage occurred on the 20th of March, 1866, the ceremony being performed by Associate Justice Solomon P. McCurdy. No divorce or formal separation had taken place between Mrs. Hill and her husband, the absent Elder, and in

broken up into several factions, probably brought about by the ingenuity of the Mormons.

* * * They [the Mormons] are probably the most universally industrious and law-abiding people on the continent, drunkenness and theft are very uncommon.

* * * The murder of Dr. Robinson occurred while I was in Salt Lake City, and that of Brassfield some time previous. There is no doubt of their murder from Mormon Church influences, although I do not believe by direct command. * * *

I have earnestly to recommend that a list be made of the Mormon leaders according to their importance, excepting Brigham Young, and that the President of the United States require the commanding officer of Camp Douglas to arrest and send to the States prison at Jefferson City, Missouri, beginning at the head of the list, man for man hereafter killed as these men were, to be held until the real perpetrators of the deed, with evidence for their conviction, be given up. I believe Young, for the present, necessary for us there."

the eyes of the Mormon community she was still his wife. Consequently Brassfield was regarded as her seducer, and his action was denounced publicly and privately as criminal. The popular feeling with the majority of the people over the affair is reflected in the following allusion to it by President Young at the April conference, a few days after the killing: “‘Brother Brigham,’” said the speaker, interrogating himself, “‘did you counsel any such thing as killing Mr. Brassfield?’ I did not, I know no more about it than you do. That which has transpired I have merely heard, and that which instigated the killing of that man is not known to me. ‘Suppose a man should enter your house and decoy away from you a wife of yours, what would you do under the circumstances?’ I would lay judgment to the line and righteousness to the plummet, so help me God. I say that for myself and not for another.
* * * Were I absent from my home, I would rejoice to know that I had friends there to protect and guard the virtue of my household; and I would thank God for such friends.” This undoubtedly was the general view of the Mormon people, based upon the supposition that some relative or friend of the absent husband had done the killing. That such was the case, however, was not clearly shown.

The Gentile view, or at least the view of a certain class of Gentiles,—those styled by the Saints “regenerators,”—was that Mrs. Hill, being a plural wife, was no wife at all by virtue of her union with her Mormon spouse, and that Mr. Brassfield had a perfect right to marry her. Perhaps this was his own opinion, though he must have known, almost as well as the woman herself, that before such a marriage would seem proper in Mormon eyes, some form of separation,—say a Church divorce, since no legal divorce could under the circumstances have been granted,—was necessary. Ignoring this fact, the pair went before Judge McCurdy and became by law Mr. and Mrs. Brassfield. The Judge, it is said, was not aware that the woman was already married, her maiden name being the only one mentioned in the ceremony. The marriage was followed by an

attempt, still in the absence of Mr. Hill, to secure his children by this plural wife, and to take away such of his household property as she might choose to claim. The attempt being resisted by the rest of the family as unlawful and unjust, Brassfield, it is said, "threatened to shoot," and to break into the room containing the goods and chattels claimed by his partner. The police interfered and he was placed in jail over night, and subsequently charged in due form and held to answer to the Probate Court for burglary and larceny, to which charge he pleaded not guilty. Meanwhile Mrs. Hill-Brassfield had instituted proceedings in *habeas corpus* for the recovery of her children, before Associate Justice McCurdy, who, though assigned to the Second Judicial District, was then holding court in the Third. It was while these cases were pending that Mr. Brassfield was shot dead, on the night of the 2nd of April, as he was about entering his boarding house.* The assassin, though pursued and repeatedly fired at, made good his escape. Judge Smith, of the Salt Lake County Court, which still had criminal jurisdiction, specially charged the grand jury, which soon convened, to use all diligence to bring the perpetrator of the crime to justice. His identity, however, was never discovered.

Those who were willing to take a conservative view of the matter believed that either some member or friend of the Hill family was responsible for the killing, or that some personal enemy of Mr. Brassfield, well knowing that suspicion would alight upon the family, or upon the Church to which they belonged, had seized this opportunity to wreak revenge and use the popular feeling to cloak the crime. Said the *Deseret News*: "This is the third case of shooting with intent to kill in less than three weeks. * * * There is no difficulty in tracing all these cases to the 'regenerating' influences at work through the city. These are its fruits everywhere. In the first two cases the individuals were known, and there was no chance

* Reich's National Hotel, a few doors east of Godbe's Exchange Buildings, First South Street.

to accuse the 'Mormons' of 'murderous designs.' In the last case, as usual where the perpetrators of crime here are not known, an attempt will likely be made to fasten guilt on some place where it does not belong." This proved to be true, though the attempt, in this instance, was confined to mere suspicion and assertion.

The *Daily Telegraph*, edited by T. B. H. Stenhouse, expressed itself as follows in relation to the tragedy: "We know but little of Brassfield; but there is no doubt in our mind that he was either a very stupid man, or has been the victim of designing men, who were probably exceedingly glad to find in his passion the means of raising a question from which they expected to bring to pass some portion of their cherished dreams. Within a few hours of his death, Brassfield expressed himself to an acquaintance of his—without any privacy whatever—that he regarded his marriage case in the sense of 'the entering wedge to burst up polygamy.' He did not speak for himself evidently, nor were he and she alone interested, for the east side of East Temple Street has been rumbling with noise ever since the marriage was determined on. Had he been wisely advised he never would have attempted to marry another man's wife, and that he knew her to be such there can be no question." A few days later the same paper said: "It is very amusing to witness the regenerators. * * * The miserable clique are getting as loathsome to the decent Gentiles and Jews of the city as they are despicable to the Mormons. Even the men of no pretensions to religion, the very sports of the city, talk of them with contempt, and are ashamed of their Brassfield 'test case.' * * * The people of Utah care nothing about the slander, vituperation and infamous lies of the regenerators—but everybody knows that 'hands off' is the essential doctrine. They may publish lies, preach lies and mouth lies as freely as they please; but the moment their hands are laid upon any man's family in an illegal manner they will find there's a road to hell across lots. * * * Brassfield has paid the penalty of his temerity, and the only regret that we have experienced has been that the clique of corrupt regenerators

who made him their victim did not fall into the snare they laid for him."

The editor of the *Telegraph*, after his change of heart toward Mormonism, which he once so zealously championed, in his book, "The Rocky Mountain Saints," thus speaks of the effect of the Brassfield murder: "The Gentile community was at first panic-stricken; but on recovering from the first stupor, they offered a reward of \$4,500 for the arrest of the murderer, which, however, elicited no information. Orders had been given by the Secretary of War to disband the volunteers, but it was immediately countermanded till regular troops could relieve them."

The anti-Mormon side of the affair having been bruited abroad, General Sherman, then commanding the Department of the Plains, from his headquarters at St. Louis telegraphed to President Young "that he hoped to hear of no more murders of Gentiles in Utah," evidently accepting the theory that the Church was to blame for what had happened. The General further stated that though his language "was not intended as a threat," yet he might say that there were a great many soldiers who had just been mustered out of service, who would readily gather again and pay Utah a visit, should the lives of citizens be afterwards imperilled in the Territory. President Young telegraphed in reply that Brassfield had "seduced a man's wife," and that life was as secure in Utah as elsewhere if persons attended to their own business.* A second telegram to

*The *Daily Telegraph*, under the heading "Regeneration at Springville," on May 23rd, 1866, several weeks after the Brassfield killing, published the following: "We learned just as we were going to press last evening, the facts of a tragic occurrence at Springville, Utah County, on Sunday evening last, about 8 o'clock. A Gentile whose name we were not told, who had been about that town all winter, on Friday evening went to the residence of a citizen whose wife was alone—her husband being absent on a military tour to Sanpcte—where he stayed and took supper. After supper he was still disposed to prolong his stay, which was interdicted. Determined to accomplish his hellish purpose, he drew a revolver, swearing he would shoot the lady. Struggle continued till morning, when the woman succeeded in making her escape through a window. The alarm was immediately spread and the scoundrel was arrested and put in the lock-up to await an investigation. In the meantime he circulated reports that he was

General Sherman, signed by prominent Gentiles, confirmed this statement, and so the matter ended.

Sherman, however, requested Brigadier-General O. E. Babcock, who was about making a tour of inspection of the military posts of the West, to spend several weeks in Salt Lake Valley, collecting such information from both Mormons and Gentiles as might possibly suggest a policy to be pursued "toward these people." General Babcock reached Fort Bridger on the 17th of June, and Salt Lake City two days later.* He remained until July 20th, talking freely and often, as he says, with both classes of the community, by whom he was treated with civility. From his report—which was very fair—furnished to the War Department after his return, a few interesting paragraphs are here inserted:

The Territory of Utah has now, the Mormons claim, a population of near 150,000.(?) They are settled in various parts of the Territory, wherever advantages are offered in soil and for irrigation. The attention of the people is generally confined to agriculture, raising of stock, the necessaries of life. The cultivation of this country was necessary to the development of the gold mines in Idaho and Montana, for this new country was supplied with flour by the Mormons. The Territory has much mineral wealth, gold,

encouraged by the woman to go to the house. Hearing these reports, taking her own and her husband's father with her, she went at once and confronted the villain, and demanded that he should retract his slanderous reports; which he refused to do, alleging that at his trial—on the morrow—he would make all right. Whereupon the woman fired at him six shots—five taking effect—killing him on the spot. We have no room for comments."

*The General states in his report, filed October 5th, 1866, and portions of which were laid before Congress by Secretary Stanton in January following, that he found Fort Bridger, in "a shameful condition—grounds not policed, buildings out of order, flooring burned up, bridges burned, shade trees broken down." The reservation was twenty-five miles square, embracing all the good land within twelve miles in either direction. The hay land was leased to Judge Carter. Babcock thought it would be advantageous and economical to the government to sell the larger part of this reservation. Camp Douglas he found to be "in neat condition, with a garrison of some three hundred and fifty men." A Fort Union is also referred to as one of the military posts in Utah at this period, but is not described nor located in those portions of the General's report published. Babcock recommended that Camp Douglas be built of stone—the quarters and store-houses—and that it be made to accommodate a regiment; also that a new post be established near Green River.

silver, lead, iron, coal, etc., but Brigham Young has kept their attention to the cultivation of the soil. I saw a less number of idle people in Utah Territory than in any locality I ever visited.

I saw President Young often. At first he was quite dignified and formal, but afterwards talked freely on the various subjects of difference between his church and the general government. The act of Congress of 1862 prohibiting polygamy, has never been enforced. President Young told me he wanted it brought before the courts, and would place no obstacle in its way, and in fact would help to bring it before the courts. He said he believed it was unconstitutional, as it is against one of the foundations of their religion. He went further and said the Mormons would never have had more than one wife had not God revealed it to them that it was His wish. His sincerity in such a statement might be questionable, though his manner and conversation would not seem so. That the people generally believed this, I think there is no question. The attempt to enforce this law of 1862 has been a failure, and I think it will be, not because the people oppose the courts, but the fanatical views of the people render such failures almost certain. The law makes it a crime to take more than one wife. Before the offender can be tried he must be indicted before a jury of the land. The jury of necessity is entirely or mostly of Mormons. No Mormon can see a crime in taking two or more wives in accordance with God's revelation to them. The result is, no one is indicted. It being a criminal offense, there is no appeal from this, hence the case never comes before the United States courts.

Judge Titus—I believe a very upright man, of no prejudice in favor of the Mormons—informed me that about one-tenth of the Mormons are polygamists; that he knows of cases where Mormons have been prevented from taking more wives by the law of 1862, and others on account of that law have separated from all but one of their wives. A great number of the inhabitants of the Territory are not citizens of the United States. Whenever they have become naturalized before Judge Titus, he has required obedience to the law of 1862.

The Gentiles (anti-Mormons) in Utah thought they would have a Gentile settlement in the Territory, in the Pahranaगत mining country, where a Gentile jury could be found, but the last Congress cut this portion of Utah off and annexed it to Nevada. So the Mormons are even stronger than before. The Legislature of Utah has placed many matters in the hands of inferior courts, which should be before the highest courts of the Territories; murder and divorce are thus placed.

Their militia, instead of being under the control of the Governor, is under the authority of the Church, or Brigham Young. * * * * * Whenever called upon to aid in suppressing the Indians, they have responded promptly, and I believe have rendered very efficient service. Brigham Young has three hundred men this season protecting the settlers of the southern portion of the Territory from a band of bad Indians, under a chief named Black Hawk. These men are furnished without complaint. They receive no compensation from the United States. If the other Territories would exhibit similar dispositions, many of the Indian troubles would disappear.

That these people were exasperated by the conduct of General Connor, and many officers in his command, there is no doubt. A more quiet or peaceable community I never passed four weeks with. My opinion is that a policy by which the institution they

cling to with fanatical faith shall be brought against public opinion will be one that will soon cure the evil and save to our country all the elements of good citizens they possess ; while a coercive policy will, in accordance with the history of the world, increase the fanaticism and destroy all the industry and wealth of 150,000 people and return that now fruitful valley to a desert again. A careful selection of civil and military officers, who with their families will give these ignorant people an example, with the enlightenment by the completion of railroad and telegraph lines will do more to correct the error of these people than all the crusades possible. This discussion is given to afford you an idea of the people with whom we are to treat in this Territory.

* * * * *

- Great Salt Lake City from its central locality in the heart of the great mountain district, with a line of telegraph east to the Atlantic and west to the Pacific; also one running north and south through the Territory; its lines of stages to the Missouri river and the Pacific; to Idaho and Columbia river; to Montana and Pahrnatagat mines, make it the great half-way place across the Continent; and so long as the Government holds internal military positions, this will be one of the greatest importance. I most earnestly recommend a department be created, making this the headquarters. Send a judicious commanding officer, with zealous quartermaster and commissary. This disposition will be such as will be economical; will place the Mormon question under his eye; will place him in a position to purchase most supplies very economically, and will place him where he can best watch the Indians.

* * * * *

Of this command, all except the permanent garrisons to protect stores and buildings (the latter to be kept at a minimum) should be mounted cavalry and mounted infantry. To send infantry after Indians is useless. The mounted command should be in readiness to move on an hour's notice. This movable force can, judiciously handled, protect the stage and emigrant travel, a vital matter along the route of travel and scattered settlements. The commanding officer should be in the country to judge between an Indian outbreak and a thieving party of whites and Indians. Many expensive Indian expeditions can thus be prevented and the right of the Indian as well as the white man be respected.

* * * * *

Along through Utah and into Idaho the settlements were quite numerous and very thrifty. The practice of irrigation seemed to reclaim all of the lands it can be applied to. The settlers are mostly Mormons, and exhibit the same thrift, industry and enterprise exhibited in other parts of Utah. The adobe houses, handsome stock of horses, sheep and cattle, with beautiful fields of wheat, oats, rye, and gardens filled with vegetables, with the almost universal planting of fruit trees, apples, pears, peaches, plums and apricots, commend these people to the kind consideration of the general government. This country can and may, some future day, be the great pastures for the sheep and cattle to supply cheaply the vast markets of our country.

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The completion of the railroad and the settling up of these valleys will reduce the price of food and labor, so that many of the fine mines now unworked on account of high prices will produce larger quantities of gold and silver than the famous gulches that are dug over and cleared in one or two seasons.

The murder of Doctor Robinson occurred on the night of the 22nd of October. It was a particularly atrocious deed, and sent a thrill of horror through the community. The writer, then a lad of eleven years, remembers with what awe he read the first account of the horrid crime from a hand-bill circulated through the city and posted up in public places the day after the occurrence. The hand-bill read as follows:

GREAT SALT LAKE CITY, October 23, 1866.

We, the undersigned, agree to pay the several sums attached to our names for the apprehension and safe delivery into the hands of the proper officers of this city or county, of the murderer or murderers of Doctor Robinson, who was killed last night:

| | | | | | | | |
|-----------------------|---|---|---|---|---|---|-------------------|
| Brigham Young | - | - | - | - | - | - | \$500.00 |
| Joseph A. Young | - | - | - | - | - | - | 200.00 |
| T. B. H. Stenhouse | - | - | - | - | - | - | 100.00 |
| Nounnan, Orr & Co. | - | - | - | - | - | - | 250.00 |
| W. S. Godbe | - | - | - | - | - | - | 500.00 |
| Wm. H. Hooper | - | - | - | - | - | - | 500.00 |
| H. S. Rumfield | - | - | - | - | - | - | 200.00 |
| Wm. Jennings | - | - | - | - | - | - | 500.00 |
| W. L. Halsey, Agent | - | - | - | - | - | - | 500.00 |
| Eldredge & Clawson | - | - | - | - | - | - | 300.00 |
| Kimball & Lawrence | - | - | - | - | - | - | 500.00 |
| Hussey, Dahler & Co. | - | - | - | - | - | - | 250.00 |
| Bodenburg & Kahn | - | - | - | - | - | - | 200.00 |
| Matthew White | - | - | - | - | - | - | 500.00 |
| R. C. Sharkey | - | - | - | - | - | - | 100.00 |
| Bohn & Molitor | - | - | - | - | - | - | 100.00 |
| F. & W. Taylor | - | - | - | - | - | - | 100.00 |
| N. S. Ransohoff & Co. | - | - | - | - | - | - | 250.00 |
| Bassett & Roberts | - | - | - | - | - | - | 100.00 |
| John W. Kerr | - | - | - | - | - | - | 100.00 |
| J. H. Kiskadden | - | - | - | - | - | - | 100.00 |
| E. Creighton | - | - | - | - | - | - | 100.00 |
| Walker Brothers | - | - | - | - | - | - | 600.00 |
| J. H. Jones | - | - | - | - | - | - | 50.00 |
| Barrow & Co. | - | - | - | - | - | - | 250.00 |
| J. H. Worley | - | - | - | - | - | - | 50.00 |
| | | | | | | | <u>\$6,900.00</u> |

The city and county authorities published under the same date this announcement:

\$2,000 REWARD.

ONE THOUSAND DOLLARS will be paid by Great Salt Lake City, and One Thousand by Great Salt Lake County, for the arrest and delivery to the Sheriff of said County, upon conviction, of the person or persons who assassinated Dr. J. King Robinson, in Great Salt Lake City, on the night of the 22nd of October, inst.

D. H. WELLS,

Mayor Great Salt Lake City.

R. T. BURTON,

Sheriff Great Salt Lake County.

GREAT SALT LAKE CITY, October 23rd, 1866.

The circumstances surrounding this tragedy were these. Dr. J. King Robinson was a native of the State of Maine, but had lived for some time in California, whence he came to Utah in 1863 or 1864. For a year or two afterwards he was the assistant surgeon at Camp Douglas, but was mustered out of service and at the time of his death was practicing his profession at Salt Lake City. There he had met and married a Miss Kay, daughter of John Kay, the actor and vocalist. The father, who was now dead, had been a well known Mormon, but the family—this portion of it—had withdrawn from the Church. Dr. Robinson was an intimate friend of Rev. Norman McLeod, who was still chaplain at Camp Douglas, but was then delivering a series of anti-Mormon sermons in Independence Hall, near which the Doctor dwelt. He is said to have borne a good character, and to have devoted a portion of his time in furthering the interests of the Gentile Sunday School. He was a young man, tall and athletic, of pleasing address, and among the Gentiles very popular. His anti-Mormon proclivities—for he was one in sentiment with his friend McLeod—prevented the Saints from thinking as much of him as they might otherwise have done, but none among them were known to be his personal enemies. In the summer preceding his death he had become involved in a legal contest with the authorities of Salt Lake City for the possession of the Warm Springs property, in the northern suburb of the municipality. Holding it to be unoccupied land and a portion of the public domain, he and another surgeon from Camp laid claim to it, erected a board “shanty”

thereon, and proceeded to make other improvements indicative of their design to retain possession. The city owned the land, and its council ordered the marshal to remove the shanty. This being done, Doctor Robinson instituted proceedings in the United States courts for the recovery of the land. He grounded his claim upon the alleged invalidity of the city charter, holding it to be defective because it did not appear from certain public records that the acts of the Utah Legislature for 1859-60, containing the new charter of Salt Lake City, had ever been submitted to the President and Congress of the United States, as required by the organic act of the Territory. Two months passed, and finally, on the 19th of October, Chief Justice Titus, before whom the case was tried, decided in favor of the city.* Three days later Doctor Robinson was assassinated.

The murder occurred a little before midnight, and within a few rods of the Doctor's dwelling. Roused from his bed by a knock at the door, he was informed that his services as a surgeon were desired immediately for a man named Jones, who had had his leg broken by the fall of a mule. Hurriedly dressing, the Doctor sallied forth into the night, in company with the person who had summoned him. A few moments later, loud shrieks were heard, followed immediately by a pistol shot; then ensued a deep silence broken only by the sound of footsteps hastily retreating. Six or seven men, it is said, were seen by various witnesses running away in different directions, but, though the moon shone brightly, none of them could be identified. Several persons, hearing the shrieks and the shot, hurried to the scene, and found the body of Dr. Robinson lying upon the ground, bleeding from three wounds in the head, two of them inflicted with some sharp instrument, and the other caused by a bullet which had passed through his brain. The police were at once notified, and several officers were soon upon the spot, and while one of them went to summon medical aid, the others, assisted by the

* Judge Titus was not regarded by the Mormons as a friend, but was considered an upright judge, who, whatever his private feelings were, never allowed them to sway him on the bench, but stood strictly by the law and his own sense of justice.

bystanders, conveyed the wounded man to Independence Hall. He was unconscious, and his life was fast ebbing away. A little later he was removed to his own home on East Temple Street, where, within an hour, he expired.

The commission of this crime threw the whole city into a fever of excitement. By everyone the deed was execrated and deplored. The Mormons considered it a calamity, and indeed nothing for them could have happened more inopportunately. "They saw at once," says Stenhouse, "that Dr. Robinson's contest with the city authorities would certainly be regarded as the cause of his 'taking off.'" And it was so regarded by many, probably by most of the Gentiles, in spite of the fact that in that contest the Doctor had been defeated and the city had come off victorious.*

The inquest in the case began on Tuesday, October, 23rd, the day following the murder, and after several adjournments finally concluded on the 6th of November. The design was evidently to have a fair and thorough investigation, in which both sides, Mormon and Gentile, should equally participate. The County Coroner, Jeter Clinton, Esq., before whom the inquest was held, invited Chief Justice Titus and Associate Justice McCurdy to sit with him upon the bench and assist him in conducting the inquiry. With the Prosecuting Attorney, Seth M. Blair, were associated Captain C. H. Hempstead and Judge Hosea Stout, the city attorney. Subsequently Hon. John B. Weller, ex-Governor of California, was specially retained for the case. Thomas Marshall, Esq., today a prominent member of the Utah bar, also lent his assistance. The jurors—a majority of whom were non-Mormons—were James Hague, Charles R. Barratt,

* Mr. Stenhouse theorizes upon the crime as follows: "It has always appeared to the author's mind that the Robinson murder was an accident and not premeditated. As one occurrence frequently suggests another of a similar character, it is very probable that the party attacking Dr. Robinson designed only to give him a beating and some rough usage. He was a young, athletic man, and when he first discovered so many men of evil purpose he very likely became alarmed, and in seeking to disengage himself from them, probably recognized some of them, and for their own protection and concealment the fatal violence was resorted to."—*Rocky Mountain Saints*.

Samuel D. Surrine, John B. Kimball, W. W. Henry and Nelson Boukofsky. The first session of the inquest was held in Independence Hall, but an adjournment was soon taken to the City Hall. Many witnesses were examined, but no information was elicited leading to the discovery of Dr. Robinson's murderers.

It was the manifest purpose of Governor Weller, who was permitted to lead the prosecution, to fasten the responsibility for the crime upon the Mormon Church authorities. This fact is plainly apparent from a series of questions propounded by him during his address to the jury. His address had been carefully prepared and was read from manuscript. The questions referred to were as follows:

"1st. If my associate, Judge Stout, the City Attorney, had been murdered under the circumstances Dr. Robinson was, would the police have exhibited a greater degree of vigilance and energy?

"2nd. Would the attention of the 4,000 people who assembled at the Tabernacle, where secular affairs are often discussed, on the succeeding Sabbath, have been called to the crime, and they exhorted to use every effort to ferret out the assassins?

"3rd. Could any prominent Mormon be murdered under the same circumstances, and no clew whatever found to the murderer?

"4th. Would any portion of the 500 special police have been called into requisition or ordered on duty?

"5th. Would any of the numerous witnesses who saw the assassins fleeing from their bloody work have been able to recognize and name them?

"6th. Have we not utterly failed to prove, after full investigation, that Dr. Robinson had a personal enemy in the world, and have we not proved that he had had difficulties with none except the city authorities?

"7th. Is there any evidence that he had done anything to make personal enemies, unless it was having the chief of police and two others bound over to answer to a charge of riot?

"8th. Would he have been murdered if he had not by his

land-claim raised a question as to the validity of the city charter?

“9th. Would the ten-pin alley have been destroyed if it had not been his property, and that he had a suit pending against the city?

“10th. Would the Mayor of the city have ordered him out of his house two days before he was murdered, if he had not understood that he claimed damage from the city for the wanton destruction of his property?

“11th. Is it not remarkable that a gang of men could go to a bowling-alley, nearly surrounded by houses, within sixty steps of the most public street of the city, between the hours of 11 and 12 at night, demolish the windows and break up with axes and sledges the alley, and no witnesses found to identify the men, or who knew anything whatever about the perpetrators of the act?

“12th. Are not the jury satisfied that some witnesses have withheld evidence calculated to fasten guilt upon certain parties, because they feared personal violence?

“13th. Is there not an organized influence here which prevents the detection and punishment of men who commit acts of violence upon the persons or property of Gentiles?

“14th. If a Mormon of good standing had been murdered, would the Mayor, to whom the Chief of Police reports, have been informed of the fact before 10 o'clock the next day?

“15th. Would the Chief of Police have gone to bed as soon as he heard of the crime, and waited three days before he visited the scene of the murder?

“16th. Was the murder committed for the purpose of striking terror into the Gentiles and preventing them from settling in this Territory?

“17th. Is it the settled policy of the authorities here to prevent citizens of the United States, not Mormons, from asserting their claims to a portion of the public domain in the regularly organized judicial tribunals of the country?

“18th. Are all legal questions which may arise in this city between Mormons and Gentiles to be settled by brute force?”

“19th. Do the public teachings of the Tabernacle lead the people to respect and obey the laws of the country, or do they lead to violence and bloodshed?”

These queries, with Governor Weller's comments thereon, had all the effect of direct accusations, and created among the Mormons much indignation. Judge Hosea Stout replied at length to what he deemed the unjust reflections cast by his colleague upon the city government. Extracts from his speech are here presented:

GENTLEMEN OF THE JURY:—I did not expect to have to make any remarks on this occasion, but the course which the gentleman has seen fit to pursue compels me either to acquiesce with what he has advanced, or enter my protest. This jury was summoned for the purpose of ascertaining, if possible, who assassinated Dr. Robinson, and to better understand what has been done to accomplish that object, I am compelled to give a short history of the proceedings in the case. In the first place the Prosecuting Attorney, Mr. Blair, called to his assistance Mr. Hempstead, and they two requested me to join them. I did so. We had a short session at Independence Hall. Things worked somewhat curiously. The next morning when I got out I learned that telegrams and communications were passing and that other parties were to be added to the court and to the prosecution in the case. If any assistance from any quarter could be brought to elicit truth in the investigation, I was glad of it. I so stated. The place of meeting was removed to this Hall. My colleague who has last spoken took the lead in the case. He has, as you will all bear witness, been unobstructed in the course he desired to pursue. He has never deigned to counsel with me in one item that I can remember. He has never informed me of what he wished to do. We have not thrown any obstructions in his way.

Now, I am City Attorney. The aspersions on the City, which he has seen fit to make, I feel called upon to reply to. The gentleman in his opening remarks stated that he did not wish to say anything that would arouse personal feelings. I do not wish to do so. But I wish to set the matter in a truer light than it now is before you. The first course pursued was to take the police of the city through a rigid examination as to the complicity they might have had in the murder; not as to what their duties might be on that night; but it was a direct inquiry as to which of them committed the deed. Suspicion rested on Mr. Heath. He was seen by three men going up the street directly after the murder. No one was to blame for the suspicion, but it came out on testimony, corroborated by those three men, that he was bent on an errand of mercy at the time—going for a doctor for the suffering man.

Another thing was inquired into of the police, and I think of them alone. They were rigidly catechised whether there were not secret combinations here to commit crime, to violate the law, to trample on the rights of citizens and take life. There was no

information elicited at that period to show that this was the case. I informed the gentleman who spoke that there were such combinations in this city, and I knew it, but had not proof sufficient for a court of justice—combinations to violate the law and set it at defiance, and do as they pleased, independent of law. I requested that the gentleman would prosecute that inquiry vigorously with every witness called, but after the examination of the police was through I do not think the question was asked.

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The inquiry went direct to the President in the stand, and no where else. If the murderers could not be detected in that direction, it did seem to me from the gentleman's speech, and the course pursued, that they had no use for any further knowledge concerning it. There has been an onslaught made upon gentlemen here and upon the people that has been most unwarranted and unjust.

I am one of the gentleman's colleagues in this prosecution, and I am sorry we differ. We do not differ in relation to the murder of Dr. Robinson. It was a crime that struck gloom to the heart of every man in the Territory with whom I have conversed, without respect to party or faith. I do not think there was a pulse but what beat in unison on the subject. The case of the Warm Springs has been introduced, and a very wrong use has been made of it. I am implicated myself in the affair, for I am attorney in the case on the part of the city. I appeal to the jury and to every man present, if there was anything in that case to call forth private vengeance. Dr. Robinson did see fit to lay claim to land there, and the city saw fit to oust him somewhat summarily, to take back what they have held for the last sixteen or seventeen years, and improved to the extent of several thousand dollars, to my knowledge. The case was brought to law. It had been hotly contested, and all the points that ingenuity and counsel could raise were brought to bear on it. The last decision given on it placed the Springs to all intents and purposes in the hands of the city. There were no grounds left for revenge or hard feelings. This has been made use of before you to implicate a community. A community has been charged with the murder of that man. How does that case stand? Witnesses who have no knowledge of law have been asked their views on it. Let me give my views. The case is pending. It has been brought to trial on its merits. The city does not obtain by the death of Dr. Robinson. Before his death we were contesting with the doctor; after his death the contest is with his bereaved widow. What has the city gained upon the charge that the gentleman has made against them? It is now the poor widow with whom the matter has to be contested instead of the doctor. That is all the city could have gained if they had done the deed. With regard to Mr. Wells ordering the Doctor out of his house; that was a matter of their own affairs.

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He has taken the trouble to draw a distinction between "Gentiles" and "Mormons." Such a party spirit has no business in court. It is told you that no "Gentile" can successfully contest a case here with a "Mormon." The thousands of cases on the records of the courts prove the incorrectness of the statement. The gentleman's high character before the nation should make him more careful in expressing himself where he is so consummately ignorant.

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Men have been asked what they thought of the anti-polygamy law and whether they would take another wife? What could be in view in so asking but to raise a party spirit and use it for party purposes? I protest against such a course. Men were asked, what were the views of the Mormons in relation to law? I believe I can show you how the law is resisted and kept here. Ever since this has been a Territory the Mormons have had to make the laws—and they were fools if they did not make those laws to suit themselves—but from the time the Federal ermine first came to this Territory, we have had to contend with them to maintain the laws. What infernal scamp has been convicted and sent to the penitentiary for thieving, who asked for a writ of *habeas corpus* but has got it granted and been turned loose on society? It has been a constant struggle to sustain the laws against the efforts of men who should have maintained them—the remains of worn-out politicians who come here and tell us that we have a systematized organization for breaking the law.

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Reference has been made to the language of President Young. He has made some strong remarks in the stand. He has often done so. That is where he does all his sly deeds, before the assembled multitude. He does not stalk about at midnight doing the work of assassination. He has had to settle difficulties with thousands and where is the man, Mormon or anti-Mormon, who ever appealed to him for the decision of a case but was satisfied with the result? I defy any man to produce one solitary example of chicanery or double-dealing in his character or career.

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Three of the policemen were bound over for breaking the alley said to belong to Dr. Robinson. I did not know who owned that alley, but I have the pleasure of knowing that those policemen were not there. That will come out on their trial. I presume the men who swore they saw them there supposed they did. I do not impugn their testimony. But what was that bowling-alley? Good neighbors testify that they could not sleep for it. They say it was a nuisance that prevented them from sleeping at night. It was a gambling house and a liquor hell-hole besides, diametrically opposed to the city ordinances, and that is within the knowledge of members of this court, to my knowledge. Then why make a sanctified thing of that? Why should we turn from investigating the murder of Dr. Robinson to enquire into religion, and who dipped the men in the Jordan? * Why turn from the sacred cause of the duty that we ought to perform, and go to hunt up something about the Warm Springs to try and make some political capital? I am ashamed of the course that has been taken. It is nothing upon which a man can make political fame. The results can do nothing but increase the acrimony of party feeling which is a thing I have ever despised. Ever since I have returned to the city I have labored to put down this acrimonious party spirit which I found here in the courts and out of the courts. When I came here a man could not be fined five dollars before the Alderman for being drunk, but the great point had to be raised whether Great Salt Lake City had any existence. Great Salt Lake City was not

* Judge Stout had reference to certain persons who, for "jumping" lands belonging to old settlers on the Jordan, had been given a ducking in the river by the irate owners of the property.

here if some poor scamp got drunk and was fined ten dollars. "What right has this city to frame ordinances to punish men for being drunk and making disturbance on the streets!" "You have no city and you never had; the Legislature cannot make a city!"

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Who have sent the men that have committed crime to the penitentiary? Was it not Mormons? Have Gentiles ever been sent there? Yes; and I am sorry to say many who call themselves Mormons have also been sent there. But I have no knowledge of any scoundrel being refused a writ of *habeas corpus* when he asked for it. I have been told by men—notorious thieves—that it did not matter what they did, there were certain judges who would release them. They might steal and be imprisoned; but a writ of *habeas corpus* would bring them out; and they would again be at liberty to prey upon the honest and peaceable. Appeal to the records, and see whether I am correct. Ever since this has been a Territory, judges have been trying to nullify the efforts of the Legislature.

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Now to show the difference between a "Mormon" and a "Gentile" in the pursuit of this investigation: A policeman was seen going from the place where the murder was committed soon after and was suspected. Suspicion was strong; so much so that he was to be arrested on the charge. Another man is brought on the stand who was himself close by the murder and saw it done, he swears; he avers things that were impossible. What is the result? It is said that he must have lied. No one wants him referred to. He was not a Mormon, "don't have him arrested," notwithstanding a pistol was found on the street, subsequently, on the way that some of the presumed assassins ran, and claimed by him. One of the witnesses, a Mormon, swears that he does not know anything about the murder, but that he heard another man, a Gentile, say he knew who did it. Why was that other man not put in the stand? It is a very mysterious way, to me, gentlemen of the jury, of bringing the guilty to light. The whole effort is to make this a means of raising party spirit, and I enter my solemn protest against any such effort.

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About jumping claims I will say a little, for I noticed in the course of the gentleman's remarks that it was said President Young had declared that if any body jumped onto his fenced lots he would send them to hell cross-lots.

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I have witnessed the settlement of two States—Illinois and Iowa—upon government lands, and the jumping a claim was always the signal for death. It did not make it right, but such is the temperament of frail humanity, that when men who have expended their all on improving public lands to make themselves comfortable homes, see an attempt being made to wrench it from them, they are apt to retaliate summarily. It was through Illinois the signal for death, and many a man bit the ground there for it. I hope no such occurrences will ever happen here. There have been jumping of claims here, and right within the city, which men in high position have sanctioned and encouraged. I thank God that nothing worse has happened. I hope a conflict never will take place. Prejudice would rise, party spirit increase, and some body might lose their life. But President Young says to Jew and Gentile: "Keep off our claims; take up any unoccupied lands in

the Territory and do as we have done—improve upon them. To that no one will have any objection.” He asked the people would they sustain the police and the city authorities? and the people said they would; and that is brought up here to show that he advises men to acts of violence and law-breaking! So much for that. Gentlemen of the jury, in the midst of the party zeal and party spirit, do not forget the assassination of Dr. Robinson. Let no man cease his endeavors, of enquiries and investigation, using every effort in his power to discover the perpetrators of the deed.

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Let us all abide the law. Let lawyers be good men and try to put down strife. I have been aided by some of them since I have been here in doing so. Let us cease this party spirit and find out where the wrong is. Dissolve these combinations for breaking the law; and when a thief is sent to the penitentiary, let him remain there until his sentence is fulfilled.

At the close of Mr. Stout’s address, Judge Crosby, formerly an Associate Justice of Utah, who was present at the investigation, took exception to the sweeping assertion of the City Attorney in relation to the turning loose of convicts from the Penitentiary. He acknowledged that while he was acting officially in the Territory one man had been brought out on a writ of *habeas corpus* and released.

Governor Weller answered Judge Stout as follows:

I regret that I am called upon to make any reply to the gentleman’s strange and very peculiar speech. I have made no charge, as he intimated, that the police were implicated in this murder. If I had believed so I would have said so, for I know of no place on the face of the earth where I dare not speak my honest opinion. I have not one particle of proof to fasten this murder upon the police of this city, and above all upon Mr. Heath, whom I regard as one of the most gentlemanly men I have met in the city. I said I came into this investigation without fear, favor or affection. I have never found the place where I was afraid to avow the opinions I honestly entertain. If I had been able during this investigation to fasten this murder upon the city authorities, or prove that the police were engaged in it, no power, short of the hand of the assassin, could have prevented me from declaring it here and anywhere. I went into this investigation to elicit the whole truth. So far as I have called attention to the teachings in your Tabernacle, it has been to show that those teachings led to bloodshed. I said I had nothing to do with the customs or religion of your people. If five or six of your females choose to marry one man, it is none of my business; but, Sir, I did bring forward evidence to show that the teachings in the Tabernacle were calculated to induce the people to take the law into their own hands. You have a right to worship God in your own manner; but you have no right to teach the people to take the law into their own hands. Was it any attack upon the religion of the people to endeavor to demonstrate that there are teachings of Mormons calculated to bring about bloodshed and murder?

Sir, I do not forget that I am standing upon American soil, and for the time being under the protection of the American flag; and as a lawyer I have a free right to give utterance to my opinions. I know that some of the jury have been impatient that questions have been asked here which they deemed irrelevant. I am glad of their advice. Although an old lawyer of considerable experience in criminal courts, it is never too late to learn, even from jurors. I have adduced certain testimony to show the public teachings, and they have culminated in bloodshed.

I have no evidence to charge the police with this murder; but I do charge them with want of vigilance. That is my opinion, and I have expressed it. I have said if my colleague had been assassinated there would have been a greater manifestation of vigilance on the part of the police. It has been asserted here that I inquired into the system of polygamy, but I believe I never asked such a question. I simply inquired if the people were taught to disregard the laws. It has been introduced by the Mayor and other witnesses, but avoided by me. Gentlemen of the jury, I have no doubt about your verdict,—that this man was killed by a band of six or seven men unknown to you. Again I say that I have not a particle of evidence by which I could fasten upon any single individual that I believe was engaged in this murder. If I had, before God I would have avowed it, for I would speak here as I would speak anywhere, frankly and freely.

The jury then retired to consult upon their verdict. Presented, it was to the effect that the deceased had come to his death by the hands of some persons to the jury unknown.

The result of the inquest was far from satisfactory, either to Mormons or Gentiles. All regarded the murder as a foul and dastardly deed, but none felt that the investigation had been as thorough as it should have been, and for that each side blamed the other. The Gentiles, or most of them, thought that the police had not been sufficiently energetic in ferreting out the perpetrators of the crime, and that some of the witnesses—Mormons of course—had purposely withheld evidence that would have unearthed the murderers. On the other hand, the Saints believed that the Gentile lawyers engaged in the investigation, in their anxiety to implicate none but Mormons, and Mormons high in authority, had refrained from pressing the inquiry in the direction of a certain person who possibly might have proved to be the real assassin, or one of several implicated in the crime. Said the *Deseret News*, a few days after the close of the inquest, in an editorial article headed "Pertinent Queries," an offset to Governor Weller's catechism: "Was there not one witness—a 'Gentile'—who must have been accessory to the

deed, or who swore to the most outrageous falsehoods? and was he not allowed to go free with all the circumstances attending his statements unexplained?" This witness was the owner of the pistol referred to by Judge Stout in his address. It is said, but with what truth we know not, that this man, on account of certain treasonable utterances during the Civil War—he being an ardent secessionist—had been made to "carry sand" at Camp Douglas at the time that Dr. Robinson was assistant surgeon at the post, and that the latter had won the fellow's hatred by causing to be increased the weight of the sand-bags that he carried. We give the statement for what it is worth, without vouching for its authenticity. That the man laid claim to a certain pistol found in the vicinity of the murder does not appear to have been denied. The Mormons felt that this matter, trivial as it may have seemed to the Gentile prosecutors, ought to have been fully ventilated, and because it was not, and the investigation, according to their view, was "pursued solely for the purpose of casting responsibility on the community, and without the least effort to discover the assassins unless it could be shown that they were Mormons," they were dissatisfied, quite as much as were the Gentiles, with the result.*

The remains of Dr. Robinson found interment at the Camp Douglas Cemetery, being followed thither by a large concourse of mourners.

Much bitterness of feeling was now manifested between the two

*Said the *Telegraph*, November 10th, 1866: The spirit and animus of Mr. Weller's carefully prepared and pre-written manuscript are too apparent to need any characterization from us, and the manly and able exposure of the intent of the same will ever be an honor to Mr. Stout. As the speech of the latter gentleman was entirely unpremeditated and only called for on the spur of the moment, by the malignant inuendoes of Mr. Weller, much that might have been exposed by Mr. Stout was suffered to pass unnoticed; he said, however, enough to satisfy any unprejudiced, honest man who had not witnessed it at the inquest, that the evident object of some of the parties was less to discover the murderers than to make capital against certain prominent gentlemen in this community. The design to criminate, if possible, certain high-minded and influential citizens was but too plainly manifest, the chief exertion of said parties evidently tending in that direction.

classes of the community. Many Gentiles persisted in the belief, which they did not hesitate to express, that it was the purpose of the Mormons to compel them to leave the Territory, and that the Brassfield and Robinson murders were events indicating a settled policy in that direction.* This, the Mormons indignantly denied, asserting still their innocence as a people of those crimes, and denouncing as a slander the charge that they were bent upon compelling a Gentile exodus. That there was a class of men in the Territory whom the Saints regarded as enemies, and did not care how soon they departed, was admitted, but that the feeling against them was due to the fact that they were Gentiles, or that it arose from any reason that would not have been deemed good and sufficient and have called forth similar sentiments in any State or Territory in the Union, was disclaimed. It was true, however, that so far as that particular class was concerned, the Saints, or their leaders, had hit upon a plan which they hoped would have the effect of weakening if not dissolving what they deemed an organized opposition to the peace and welfare of the community. It was to boycott such of the Gentile merchants and traders as it was believed were conspiring against the best interests of the people. The appended correspondence, between the non-Mormon merchants of Salt Lake City and President Brigham Young, a few weeks after the lamentable tragedy last narrated, speaks for itself:

To the Leaders of the Mormon Church,

GENTLEMEN:—As you are instructing the people of Utah, through your Bishops and missionaries, not to trade or do any business with the Gentile merchants, thereby intimidating and coercing the community to purchase only of such merchants as belong to your faith and persuasion, in anticipation of such a crisis being successfully brought about by your teachings, the undersigned Gentile merchants of Great Salt Lake City respectfully desire to make you the following proposition, believing it to be your earnest desire for all to leave the country that do not belong to your faith and creed, namely: On the fulfillment of the conditions herein named. First—The payment of our outstanding accounts owing us by members of your church; Secondly—All of our goods,

* Governor Weller, who had taken the lead at the Robinson inquest, was next heard of at Washington seeking "protection for the Gentiles in Utah."

merchandise, chattels, houses, improvements, etc., to be taken at a cash valuation, and we to make a deduction of twenty-five per cent. from the total amount. To the fulfillment of the above we hold ourselves ready at any time to enter into negotiations, and on final arrangements being made and terms of sale complied with we shall freely leave the Territory.

Respectfully Yours,

WALKER BROS.,

BODENBURG & KAHN,

C. PRAG, OF FIRM OF RANSOHOFF & CO.,

J. MEEKS,

SEIGEL BROS.,

L. COHN & CO.,

KLOPSTOCK & CO.,

GLUKSMAN & COHN.,

MORSE, WALECOTT CO.,

J. BAUMAN & CO.,

MORRIS ELGUTTER,

GILBERT & SONS,

WM. SLOAN,

ELLIS & BROS., BY J. M. ELLIS,

McGRORTY & HENRY,

F. AUERBACH & BROS.,

OLIVER DURANT,

S. LESSER & BROS.,

JOHN H. McGRATH,

WILKINSON & FENN,

I. WATTERS,

M. B. CALLAHAN,

THOS. D. BROWN & SONS.

GREAT SALT LAKE CITY, Dec. 20, 1866.

PRESIDENT YOUNG'S REPLY.

GENTLEMEN:—Your communication of December 20th, addressed to “The Leaders of the Mormon Church” was received by me last evening. In reply, I have to say, that we will not obligate ourselves to collect your outstanding accounts, nor buy your goods, merchandise, and other articles that you express yourselves willing to sell. If you could make such sales as you propose, you would make more money than any merchants have ever done in this country, and we, as merchants, would like to find purchasers upon the same basis.

Your withdrawal from the Territory is not a matter about which we feel any anxiety: so far as we are concerned, you are at liberty to stay or go, as you please. We have used no intimidation or coercion towards the community to have them cease trading with any person or class, neither do we contemplate using any such means, even could we do so, to accomplish such an end. What we are doing and intending to do, we are willing that you and all the world should know.

In the first place, we wish you to distinctly understand that we have not sought to ostracise any man or body of men because of their not being of our faith. The wealth that has been accumulated in this Territory from the earliest years of our settlement by men who were not connected with us religiously, and the success which has attended their business operations prove this: In business we have not been exclusive in our dealings, or confined our patronage to those of our own faith. But every man who has dealt fairly and honestly, and confined his attention to his legitimate business, whatever his creed has been, has found friendship in us. To be adverse to Gentiles because they are Gentiles, or Jews because they are Jews, is in direct opposition to the genius of our religion. It matters not what a man's creed is, whether he be Catholic, or Episcopalian,

Presbyterian, Methodist, Baptist, Quaker or Jew, he will receive kindness and friendship from us, and we have not the least objection to doing business with him; if in his dealings he act in accordance with the principles of right and deport himself as a good, law-abiding citizen should.

There is a class, however, who are doing business in the Territory, who for years have been the avowed enemies of this community. The disrapture and overthrow of the community have been the objects which they have pertinaciously sought to accomplish. They have, therefore, used every energy and all the means at their command to put into circulation the foulest slanders about the old citizens. Missionaries of evil, there have been no arts too base, no stratagems too vile for them to use to bring about their nefarious ends. While soliciting the patronage of the people and deriving their support from them, they have in the most shameless and abandoned manner used the means thus obtained to destroy the very people whose favor they found it to their interest to court. With the regularity of the seasons have their plots and schemes been formed: and we are warranted by facts in saying that, could the heart's blood of the people here be drawn, and be coined into the means necessary to bring their machinations to a successful issue, they would not scruple to use it. They have done all in their power to encourage violations of law, to retard the administrations of justice, to foster vice and vicious institutions, to oppose the unanimously expressed will of the people, to increase disorder, and change our city from a condition of peace and quietude to lawlessness and anarchy. They have donated liberally to sustain a corrupt and venal press, which has given publicity to the most atrocious libels respecting the old citizens. And have they not had their emissaries in Washington to misrepresent and vilify the people of this Territory? Have they not kept liquor, and surreptitiously sold it in violation of law, and endeavored to bias the minds of the Judiciary to give decisions favorable to their own practices? Have they not entered into secret combinations to resist the laws and to thwart their healthy operations, to refuse to pay their taxes and to give the support to schools required by law? What claims can such persons have upon the patronage of this community, and what community on the earth would be so besotted as to uphold and foster men whose aim is to destroy them? Have we not the right to trade at whatever store we please, or does the Constitution of the United States bind us to enter the stores of our deadliest enemies and purchase of them? If so, we should like that provision pointed out to us. It is to these men whom I have described, and to these alone, that I am opposed, and I am determined to use my influence to have the citizens here stop dealing with them and deal with honorable men. There are honorable men enough in the world with whom we can do business, without being reduced to the necessity of dealing with the class referred to. I have much more to say upon this subject.

BRIGHAM YOUNG.

GREAT SALT LAKE CITY, Dec. 21st, 1866.


Did the merchants who sent the letter bearing their signatures to Brigham Young, expect to receive any other sort of an answer from him? Without impugning their motives in making such a propo-

sition, or his in rejecting it, but accepting each statement as it stands and crediting both sides with perfect sincerity, we ask was there one among them who imagined for a moment that the sagacious Mormon leader would walk into the trap which he doubtless believed was here set for him? Had he considered favorably the offer of those merchants and permitted them to make the exodus they proposed, who cannot see what would have been the result? The money realized from the purchase of their property, however immense the sum, would have been nothing compared to the political capital simultaneously invested to the detriment and perhaps the destruction of the Mormon people. That Gentiles "could not live in Utah" was just what the anti-Mormons were asserting, and a general exodus of Gentiles from the Territory would have given to that falsehood all the coloring of truth, and sown broadcast the seed of further prejudice and hostility against the Saints. Brigham Young, even had he desired all non-Mormons to leave Utah, was too shrewd to have given his enemies such a terrible advantage over him. A Gentile exodus was the very thing that he and his people did not desire, as everything goes to prove.

CHAPTER VIII.

1866-1868.

THE DESERET TELEGRAPH LINE—BRIGHAM YOUNG ITS PROJECTOR—JOHN C. CLOWES AND THE PIONEER OPERATORS—SUPERINTENDENT MUSSER AND HIS WORK—THE UTAH LEGISLATURE PETITIONS CONGRESS FOR THE REPEAL OF THE ANTI-POLYGAMY ACT—DESERET AGAIN SEEKS ADMISSION INTO THE UNION—SENATOR HOWARD'S EXTIRPATION BILL—THE NEW YORK "WORLD" ON THE PROJECTED CRUSADE AGAINST THE MORMONS—CONGRESS DENIES UTAH'S REQUESTS AND REFUSES TO PASS THE HOWARD BILL—MORE GRASSHOPPER RAIDS—SOUTHERN UTAH FLOODS—COMPLETION OF THE GREAT TABERNACLE AT SALT LAKE CITY—THE MUDDY MISSION—EMIGRATIONAL MATTERS—JOURNALISTIC AFFAIRS—DEATH OF HIEBER C. KIMBALL—GEORGE A. SMITH SUCCEEDS HIM IN THE FIRST PRESIDENCY.

HE year 1866 was notable in Utah for the establishment of the Deseret Telegraph Line, that electrical Briareus whose hundred arms and hands now reach and penetrate to every portion of her domain and to some parts of the adjoining States and Territories. The project of covering Utah with a network of electric wires was born at least as early as 1861, the year that witnessed the completion of the Overland Telegraph Line. Like Minerva from the brow of Jove, the idea, it is perhaps needless to say, sprang from that prolific source of practical thought and public-spirited enterprise, the master mind of Brigham Young.

The need of just such a swift messenger as the telegraph to enable the Mormon authorities at Salt Lake City to communicate with and receive messages from their people in the remote settlements, had long been felt, and it is not improbable that it was among President Young's contemplated projects many years before the arrival of the Overland Line, which one would naturally suppose furnished his original idea as well as his cue for action. A mind that could conceive the thought and even mark out the future route of a trans-continental railway to the Pacific, at a time when the

great west was *terra incognita*, not only to the people of the east, but to the roving trapper and adventurous mountaineer who shared with the wild beast and still more savage Indian its all but trackless solitudes, could surely have formed simultaneously with or soon after the founding of these mountain settlements, the project of binding them together by means of that mighty agent of civilization, already in vogue elsewhere, the electric telegraph. And of what incalculable service it would have been in those early days of colonizing, emigrating and Indian fighting, preceding the era of its advent. It is with feelings of unspeakable regret—regret that no Deseret Telegraph then existed—that one recalls the awful tragedy at Mountain Meadows, a calamity that would have been averted if Brigham Young had had at his command in September, 1857, what he did have ten years later, this lightning messenger, in lieu of a jaded horseman, to convey to Cedar City his anxious order: “Keep the Indians from the emigrants at any cost, if it takes all Iron County to protect them.”

As said, the local telegraphic project was born as early as the year 1861, if not earlier. But active steps toward its establishment were not taken until four years later. Early in November, 1865, a circular was sent by President Young to the Bishops and presiding Elders of the various wards and settlements of the Territory, “from St. Charles, Richland County,* in the north, to St. George, Washington County, in the south,” calling upon them to unite in the work of founding the new enterprise. This circular read as follows:

BRETHREN:—The proper time has arrived for us to take the necessary steps to build the telegraph line to run north and south through the Territory, according to the plan which has been proposed. The necessity for the speedy construction of this work is pressing itself upon our attention, and scarcely a week passes that we do not feel the want of such a line. Occurrences frequently happen in distant settlements which require to be known immediately in other parts of the Territory; and, in many instances, public and private interests suffer through not being able to transmit such news by any quicker channel than the ordinary mails. We are rapidly spreading abroad and our settlements extend to a great distance on every hand. We now require to be united by bonds which

* Afterwards changed by legislative enactment to Rich County.

will bring us into more speedy and close communication with one another; the center should be in a position to communicate at any moment with the extremities, however remote; and the extremities be able, with ease and speed, to make their wants and circumstances known to the center. Instead of depending altogether upon the tardy operation of the mails for the transmission of information, we should bring into requisition every improvement which our age affords, to facilitate our intercourse and to render our intercommunication more easy.

These requirements the telegraph will supply, and it is well adapted to our position and the progress of the age in which we live.

This fall and winter will be a very suitable time to haul and set the poles along the entire line to carry the wire; and we wish you to take the proper steps immediately in your several wards and settlements to have this part of the labor efficiently and entirely accomplished, so that we may be able to stretch the wire as soon as it can be imported and put up next season. From settlement to settlement let the men of judgment select and mark the route for the line to run, so as to have it as straight as possible and yet convenient to the road. The poles should be twenty-two feet long, eight inches at the butt and five inches at the top; and to be durable they should be stripped of their bark; and they should be set seventy yards apart and be put four feet in the ground.

The collecting of the means needed for the purchase of wire has been deferred until the present time, through the representations of many of the Bishops to the effect that after harvest the people would be in a better position to advance the money. The grain is now harvested, and the time suggested as being the most convenient for the collecting of this means has arrived. We wish each one of you to take immediate measures throughout your various wards to collect the necessary means to purchase your share of the wire and it should all be paid in by the first of February, 1866, as by that time it will be needed to send east.

Wherever there is a telegraphic station established along the line there will be one or two operators needed and every settlement that wishes to have such a station should select one or two of its most suitable young men and send them to this city this winter, with sufficient means to go to school to learn the art of telegraphy.

There will be a school kept here all the time for this purpose. And every settlement which expects to have a station should also make its calculations for purchasing an instrument for operating with, and the acids and all the materials necessary for an office.

The wire, insulators, etc., will probably weigh fifty-five tons, or upwards, and to bring these articles from the frontiers, teams will have to be sent down from each settlement this spring with the teams which we send down for the poor.

The call met a hearty response. Means were collected, the line was surveyed, and the labor of getting out poles from the canyons upon which to string the wires, was immediately begun. The money collected for the purchase of wire and other paraphernalia was sent east in the spring of 1866, and in the fall the wagons containing the freight arrived in Utah. They were sixty-five in

number and were in charge of Captain Horton D. Haight. He reached Salt Lake City on the 15th of October.*

The wires being laid where poles had already been erected to receive them, on the 1st of December, 1866, the Deseret Telegraph Line was opened between Salt Lake City and Ogden. The first message was sent by President Young at about five o'clock that afternoon, and was addressed to President Lorin Farr and Bishop Chauncey W. West, of Ogden, and "the Saints in the northern country." It was in the nature of a dedication of the line and a congratulation to those who had constructed it. On December 8th communication was opened with Logan, Cache County, and on the 28th with Manti, Sanpete County. About two weeks later the line reached St. George. By the middle of January, 1867, five hundred miles of wire had been laid, at a cost of \$150 per mile. Each mile required three hundred and twenty pounds of wire, costing thirty-five cents per pound. This, the first circuit of the local line, extended from Cache Valley in the north to "Dixie" in the south, with a branch line running through Sanpete Valley. Under the personal supervision of Mr. John C. Clowes, who was the instructor of the school of telegraphy at Salt Lake City, offices were opened at all the principal settlements along the route.† Following is a list of the pioneer operators of the first circuit of the Deseret Telegraph Line,

* In September of this year there came to Utah two noted Englishmen—Hepworth Dixon and Charles W. Dilke,—both of whom afterwards published books in which the Mormons came in for a good share of attention. Dixon's work was entitled "New America," and Dilke's "Greater Britain." Like the famous English traveler and writer, Richard F. Burton, who visited Utah in the summer of 1860, and gave to the public the results of his observations in that interesting volume "The City of the Saints," and the no less celebrated Frenchman, M. Jules Remy, the naturalist, who in 1855 passed through the Territory, and "wrote up" the Mormon subject in his "Journey to Great Salt Lake City," Messrs. Dixon and Dilke in their writings were more or less favorable to the Saints. Mr. Dilke subsequently became Sir Charles Dilke of recent notoriety.

† Mr. Clowes came to Utah in the spring of 1862, soon after the advent of the Overland Telegraph Line, of which he was one of the original local operators. He was an expert telegrapher. He joined the Mormon Church and lived at Salt Lake City for several years, but finally left the Territory and died in the east.

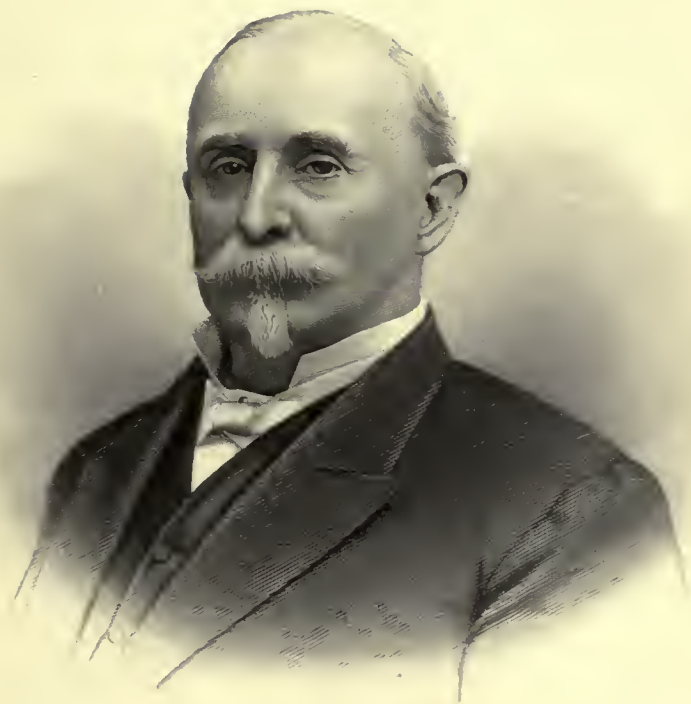
furnished the author by courtesy of William B. Dougall, Esq., the present Superintendent:

Joseph Goddard, Logan; Peter F. Madsen, Brigham; David E. Davis, Ogden; Morris Wilkinson, Salt Lake City; Joseph A. West, Provo; John D. Stark, Payson; William C. A. Bryan, Nephi; Zenos Pratt, Scipio; Richard S. Horne, Fillmore; Clarence Merrill, Cove Creek; S. A. Kenner, Beaver; George A. Peart, Kanarra; George H. Tribe, Toquerville; A. R. Whitehead, Washington; Robert C. Lund, St. George; Knud Torgerson, Moroni; Anton H. Lund, Mt. Pleasant; John H. Hougaard, Manti.

On the 18th of the same month—January, 1867—was incorporated under the laws of Utah the Deseret Telegraph Company. Its incorporators were Brigham Young, Edward Hunter, A. Milton Musser, Edwin D. Woolley, Alonzo H. Raleigh, John Sharp, William Miller, John W. Hess, Andrew J. Moffitt, and Robert Gardner. On the 21st of the ensuing March the company was organized with the following named officers:

President, Brigham Young; Vice-President, Daniel H. Wells; Secretary, William Clayton; Treasurer, George Q. Cannon; Superintendent and General Manager, A. M. Musser. These officers were all members of the board of directors. The remaining members of the board were Edward Hunter, George A. Smith, A. O. Smoot, A. H. Raleigh, John Sharp, Joseph A. Young, Erastus Snow and Ezra T. Benson.

Amos Milton Musser, the man chosen to superintend and manage the general business of the telegraph line, is well known as one of Utah's wide awake and most progressive citizens, ever among the foremost in encouraging and promoting a good cause and laboring intelligently and energetically in the furtherance of any enterprise with which he may be connected. His special pride is the development of Utah. He is by birth a Pennsylvanian, having been born in Donegal Township, Lancaster County, on the 20th of May, 1830. He came to Utah in 1851, but from 1852 to 1857 was absent upon a mission as a Mormon Elder to British India.



Now and always
Yours fraternally
A. Milton Musser.
Age 61.

Before returning he went around the world. Under his superintendency of the Deseret Telegraph Company, which lasted for nine years, lines were built from St. George, Utah, to Pioche, Nevada; from Toquerville to Kanab; from Moroni to other settlements of Sanpete County, including Gunnison; thence up the Sevier River to Monroe; from Payson to the Tintic mines; from Beaver to the Star Mining District; from Salt Lake City to Alta and Bingham; from Brigham City to Corinne, and to Logan *via* Mendon; from Logan to Franklin and thence to Paris, Idaho.

The line was not expected to be a paying institution, but was merely to put the capital of Utah in connection with the outlying settlements, and for social convenience among a fraternal people; but the extension from St. George to Pioche paid handsomely for two years and until a competing line from the west was established at the latter point.*

During the progress of the early portion of these improvements, and for some time prior to the planting of the first pole of the Deseret Telegraph Line, an Indian war was raging in southern Utah, in some of the parts traversed by the telegraphic system. It was known as the Black Hawk war. The particulars of this, the most serious trouble with the Indians that the people of the Territory have ever experienced, will be fully set forth in another chapter.

In January, 1867, the Legislative Assembly memorialized Congress for the repeal of the anti-polygamy act of 1862. The reasons assigned for the request were: that according to the faith of the Latter-day Saints plurality of wives was a divine doctrine, as publicly avowed and proclaimed by the Church ten years before the passage of said act; that the doctrine had not been adopted for lustful purposes but from conscientious motives; that the enactment

* Mr. Musser continued to be general manager and one of the directors of the Deseret Telegraph Company until the fall of 1876, when duty again called him from the Territory for a season. He subsequently was the first to introduce the telephone into Utah and operated several local lines until the Bell and other telephone companies consolidated and a local company was incorporated. He also introduced the first phonograph.

of the law whose repeal was desired was due, it was believed, to misrepresentation and prejudice, which the people of Utah had deplored and exerted themselves to the utmost to remove; that the Judiciary of the Territory had not tried any case under the anti-polygamy law, though repeatedly urged to do so by those who were anxious to test its constitutionality; that the Judges of the District Courts had felt obliged by said law to refuse naturalization papers to certain applicants; that the memorialists had ever been firm and loyal supporters of the Constitution of the United States, which they believed was contravened by the act of 1862, which was not only *ex post facto* in its nature, but violative of the first amendment to the Constitution, forbidding Congress to make any law respecting an establishment of religion or prohibiting the free exercise thereof. The memorial stated that the Territory, as the fruit of plural marriages, had enjoyed an unexampled immunity from the vices of prostitution and its kindred evils, and for all these reasons Congress was asked to grant the prayer of the memorial, leave the people free to exercise their religion and its ordinances, and thus promote the peace and welfare of the country and frown down the insidious attempts that were being made to array the inhabitants of one section against those of another, because of differences in religious belief.

An act was also passed by the Legislature providing for a special election to be held on the first Monday in February. At that election was to be chosen a delegate to the House of Representatives for the fortieth Congress. The delegate for the forty-first Congress was to be elected at the general election on the first Monday of August, 1868, and biennially thereafter. Thus the election for delegate, which, since the year 1851, had taken place in the odd years—1853, 1855, 1857, 1859, 1861, 1863 and 1865—was made to fall upon the even years, to conform to the custom prevalent throughout the nation. At the same time a Representative to Congress for the State of Deseret was to be chosen, and the Constitution of the State, as amended, to be voted upon by the people. The principal amendment

proposed was in Article 1, fixing the western boundary of the State at the 37th meridian of longitude west from Washington, or the 114th meridian of longitude west from Greenwich, to agree with the western boundary of the Territory since the taking by Congress, in 1866, of another slice of Utah's domain to appease the insatiate appetite of Nevada.* All this was preparatory to another effort about to be made to secure the admission of Deseret into the Union. The election took place on the day appointed, between fifteen and sixteen thousand votes being cast. The amended Constitution of Deseret was adopted, and Hon. William H. Hooper was re-elected delegate to Congress, and chosen also Representative for the State of Deseret. The memorials for the repeal of the anti-polygamy act and the admission of Deseret into the Union, were soon afterwards conveyed to Washington.

At this very time there was pending in Congress a bill introduced by Senator Howard for the extirpation of polygamy in Utah, and a crusade against the Mormon people was projected. Doubtless this was partly due to the efforts of local anti-Mormons—those whom the Saints styled “regenerators”—who, soon after the inquest following the murder of Dr. Robinson, had sent Governor Weller to Washington to work up an anti-Mormon sentiment and “seek protection for Gentiles in Utah.”

The New York *World*, on the 8th of January of that year, expressed its views in relation to the proposed crusade as follows: “We hope the bill for the extirpation of polygamy in Utah will not pass. It could not be enforced without a Mormon war, and under present circumstances a Mormon war would be a prodigal squandering of the national resources. When, some ten years ago, Colonel Steptoe [Colonel Johnston] was sent against the Mormons at the

* There was considerable talk at this time of annexing Utah to Nevada, under conditions that would insure Gentile control of the commonwealth. Nevada, all but bankrupt in spite of her gold and silver mines, was called a “starveling state” by her own citizens, while Utah, with her sound agricultural basis, was prosperous, free from debt, and had about four times the population of her neighbor.

head of a military force, the only good that came of it was to enrich a set of western speculators who got lucrative contracts for supplying the expedition with horses, mules, wagons, harness, flour, pork, blankets, etc. * * * We do not impugn Senator Howard's motives. He belongs to the party of fanatics who burn with holy zeal against evils at a distance; a party that would cut down forests and exhaust coal mines to thaw out the Hudson River in the month of March, when the advance of the sun into the northern constellations would surely unlock the fetters of ice about the beginning of April. * * * It is stupidity run mad to attempt to accomplish by enormous, wasteful expenditures what will be more effectually accomplished by the growth of our western settlements. Even if polygamy should, at last, have to be put down by force, this is no time to begin a crusade. The Pacific Railroad is stretching its track across the continent. Until its completion it is fortunate that there is a thriving community in the heart of the wilderness, where the overland caravans can stop and refresh and procure new supplies of provisions. To interrupt the industry of Utah and convert the Territory into a camp; to drive the Mormons and their wives to the mountain fastnesses and make their settlements a desolation, would not extinguish polygamy, but it would put back and retard civilization in that remote interior. The existence of Utah with its busy industries is an important aid to the settlement of the vast circumjacent region. * * * If our government will exercise a little foresight, if it will practice a wise and masterly inactivity, the Mormon problem will solve itself. * * * It will rapidly decline under the influences brought to bear upon it by the completion of the Pacific Railroad. * * * It is never wise to attempt by legislation and arms, reforms which time and social forces are certain to bring about."

The Mormons found very little fault with the logic of this article in the *World*. While differing with its author in some of his premises and conclusions, they could not but admire his courage and good sense. Said the *Deseret News*, commenting on the article,

which it presented in full to its readers: “‘The projected crusade against the Mormons’ is unwise and impolitic for other and graver reasons than those announced by the *World*. It would be an attempt to destroy the rights and liberties of a happy, prosperous, industrious and loyal community; it would be in open violation of the Constitution, the palladium of the rights and liberties of the nation. * * * And if these things were done with the Mormons, sound statesmanship should ask the question, Would they stop there? or would they not extend to every section of the country as fast as any portion thereof became obnoxious to an opposite party who might possess the reins of power. * * * We can present an easier method of solving the ‘Mormon problem’ than that of Senator Howard or the writer in the *World*;—and that is, to let the industry of the Mormons continue to develop itself; give them the right of self-government and relieve them from a Territorial tutelage which they have overgrown; watch the growth of virtue, wisdom and correct principles of government in their midst; and see if they do not present a picture of prosperity, peace, united effort and happiness such as the dissension-torn states and nations of the earth could pattern after with profit. * * * Give us the State government which we are now petitioning for; let us develop that which has been called by philosophers ‘the greatest social problem of the age’ in peace, and see if the sequel will not justify all our arguments in its favor. By giving us the State government which we crave, and have the most indubitable right to seek for, we will take the trouble off the hands of those who are concerned about our peace and prosperity, and try to live at least as virtuously and righteously as they do in other states.”

But Congress did not give the State government asked for; nor was the anti-polygamy act repealed; nor did the Howard extirpation bill become law. A crusade against the Mormons was soon to begin, and was destined to continue, with brief intermissions, for a period of many years; but no new legislation preceded it, though much was threatened; and the Federal courts, and not the mountain fast-

nesses, became the battle-ground of the great contest, which was fought out with laws, arguments and judicial rulings in lieu of swords and bayonets.

During the summer of 1867, Utah was afflicted with another grasshopper visitation. These pests, it will be remembered, made their first appearance in the Territory as an agency of destruction in the summer of 1854, and came again during the year following. For more than a decade they then disappeared, or were only seen in certain places, and in numbers not considered formidable. But now with appetite fierce and relentless they settled down in countless swarms upon the ripening fields, budding orchards and green meadows, devouring everything edible in their way. They would bite sharply whatever they chanced to alight upon, whether animate or inanimate, the pain inflicted by one of them being almost equal to the sting of a bee. In places they fairly carpeted with their bodies the sidewalks, streets, and door-yards of dwellings, shaving off the grass, where any might be growing, as cleanly as a barber's razor the cheek and chin of the most exacting customer. They did great damage to crops and vegetation in general throughout the Territory. They left very few leaves upon the trees, and even ate the tender bark of the season's twigs. In some instances they actually fell upon and devoured each other. And yet their coming that year was but the initial of a series of visitations extending through several successive seasons. In 1868, the people, as at the time of the cricket plague, made organized warfare upon the marauders. In 1869, only Cache, Washington, Kane and Iron counties suffered at all seriously, while other parts of the Territory escaped and gathered abundant crops. The grasshoppers continued their destructive raids until well along into the "seventies," when they disappeared, be it hoped, forever.

Other calamities of the year 1867 were the floods in southern Utah. In the month of December, Millersburg and other small towns on the Rio Virgen, and others on the Santa Clara, were almost totally destroyed. Owing to heavy rains, the rivers and streams in

various parts of the Territory were swollen far beyond their usual volume. Salt Lake City, during 1866, had provided against the danger of floods in City Creek, by constructing the rock aqueduct on North Temple Street, through which the waste waters of that stream now reach the Jordan.

In October, 1867, was completed,—so far at least as to enable the general conference held that month to convene beneath its ample roof,—the famous Mormon Tabernacle at Salt Lake City. This unique edifice, which stands a little west of and upon the same block as the great Temple now nearing completion, had been in course of construction since July, 1864. Unlike the Temple, it is not a handsome building if viewed from the outside. Like the Salt Lake Theater, in order to be appreciated it must be seen from the interior. The Tabernacle is a vast dome elliptical in form, resting upon forty-four buttresses of solid masonry. Between these buttresses, which are of red sandstone, three by nine feet in thickness and width, and from fourteen to twenty feet high, are twenty doors, most of them nine feet wide and all opening outward, affording speedy egress from the spacious interior. The building is two hundred and fifty feet long and one hundred and fifty feet wide; the immense roof, the ceiling of which is nearly seventy feet from the floor, being arched without a pillar; making it, with one exception, the largest self-supporting arch in America. The full height of the structure is eighty feet. The seating capacity of the Tabernacle is nearly ten thousand, including the grand gallery, nearly five hundred feet long by thirty feet wide, running around three sides of the auditorium. The gallery, however, was not finished at the time of the opening. The organ,—which, when built, was the largest one constructed in America,—stands at the west end of the hall a little back of the pulpit, or pulpits,—for there are three comprised in the stand; the highest being for the First Presidency, the next for the Twelve Apostles, the Patriarch of the Church and the Presidency of the Stake, and the third for the First Seven Presidents of Seventies and the Presidency of the High Priests' quorum. There is also a fourth place—the

sacramental stand—occupied by the Presiding Bishopric and their assistants. From this stand, on the Sabbath, is administered the sacrament of the Lord's Supper. Upon platforms on either side of these pulpits are seats for the Seventies, High Priests, ward Bishoprics and the Priesthood generally. Immediately back of the pulpits, on each side and in front of the organ, are the seats of the choir, rising tier above tier almost to the ceiling and blending with the two extremes of the horse-shoe composing the gallery. The body of the organ is forty feet high, thirty-three feet wide, and thirty feet deep, and its front towers have an altitude of forty-eight feet. Technically speaking it contains four full organs, and is provided with sixty-seven stops, including the pedals. Its opening music was given through seven hundred mouths, but the number of pipes has since been increased to between twenty-six and twenty-seven hundred, ranging in length from two inches to thirty-two feet. The Tabernacle has an accomplished organist in the person of Professor Joseph J. Daynes. The choir leader for many years was Professor George Careless, whose wife, the late Mrs. Lavinia Careless, was in her lifetime Utah's leading soprano. Professor Careless was succeeded as choir leader by Ebenezer Beesley, and he by the present leader, Evan Stephens, a musical genius. The organ is composed entirely of Utah timber, and was designed and built by Utah talent. Its builder was Joseph H. Ridges. The architect of the Tabernacle, under Brigham Young, was Henry Grow, who also had charge of its construction. It is heated with steam and lighted with gas and electricity, and at night when its three hundred jets are all aglare, bathing in radiance the variegated costumes of one of its vast congregations, the interior presents a brilliant and bewilderingly beautiful appearance. The acoustic properties of the building are a marvel. A pin dropped at one end of the hall, can be heard distinctly, when all is still, at the other end, over two hundred feet away. This is owing to the concave ceiling. When the place is thronged, however, it requires a good pair of lungs and a clear enunciation to make a speaker intelligible in every part.



By E. Williams & Bro. NY

Evan Stephens

On the 8th of October, during the first conference that convened in the great Tabernacle, Joseph F. Smith was called to the Apostleship, to fill a vacancy caused by the apostasy of Amasa M. Lyman. This is that same Joseph F. Smith who is now one of the First Presidency of the Mormon Church, and whose birth at Far West, Caldwell County, Missouri, in 1838, and his emigration to Utah in 1848, have been noted in previous chapters. At this conference also, a large number of missionaries were called to go with their families and strengthen the settlements of southern Utah. This was the origin of the famous "Muddy Mission." The names of those called to go south—most of whom responded, and a few of whom were already there—were as follows:

| | | |
|------------------------|------------------------------|------------------------|
| William H. Seegmiller, | Moroni Reese, | John Wood, |
| Adam F. Seegmiller, | Ashton Nebeker, | —— Wood, |
| Thurston Simpson, | Guilelmo G. R. San Giovanni, | William T. Cromar, |
| Samuel Riter, | Wilford Woodruff, Jr., | John F. Cahoon, |
| Oscar B. Young, | Charles J. Toone, | William M. Cahoon, |
| E. M. Weiler, | Clements R. Horsley, | Albert Merrill, Jr. |
| Alma Cunningham, | John Sharp, Jr., | Clarence Merrill, |
| George B. Spencer, | Daniel McRae, | Franklin Merrill, |
| George W. Grant, | Israel Barlow, Jr. | Joseph Kesler, |
| Isaac Young, | Milton H. Davis, | Ephraim Scott, |
| John C. Young, | Ward E. Pack, | Robert Smithies, |
| Charles Alley, | Joseph A. Peck, | Emerson D. Shurtliff, |
| Oliver Free, | W. J. F. McAllister, | Harrison T. Shurtliff, |
| George Milan, | Hyrum P. Folsom, | Samuel H. Woolley, |
| Miles P. Romney, | Charles Crismon, Jr., | George Stringham, |
| William Gibson, | Charles E. Taylor, | Benjamin J. Stringham, |
| David Gihson, | Willis Darwin Fuller, | Nathaniel Ashby, |
| George D. Watt, Jr., | Revalo Fuller, | Richard H. Ashby, |
| Orson P. Miles, | Edward A. Stevenson, | John Reese, |
| E. H. Harrington, | Levi Stewart, Jr., | William Calder, |
| Zabriskie Young, | Joseph U. Eldredge, | Joseph Hyde, |
| John Whitney, | Helaman Pratt, | Albert P. Dewey, |
| E. G. Woolley, | George J. Taylor, | Joseph S. Murdock, |
| Edwin D. Woolley, Jr., | Edmund Ellsworth, Jr., | Andrew Taysum, |
| Robert N. Russel, | David R. Lewis, | Samuel Hamer, |
| Edwin Frost, | Robert Watson, Jr., | John Paul, |
| Morris Wilkinson, | Matthew Lyon, | John S. Haslam, |
| Joseph H. Felt, | Richard S. Horne, | Joseph E. S. Russel, |

| | | |
|-----------------------|------------------------|-----------------------|
| John G. Clark, | Milton O. Turnbow, | Arthur Vickey, |
| Aaron Nelson, | Christopher Hurlbert, | Edgelbert Olsen, |
| Samuel Malin, | William H. Streeper, | Duncan Spears Casper, |
| Peter Beckstrom, | ——— McConnel, | William W. Casper, |
| Charles J. Lambert, | James Fogg, | William Casto, |
| Pleasant S. Bradford, | James Hansen. | W. D. Parks, |
| John Eardley, | David O. Rideout, | William J. Spencer, |
| Scipio A. Kenner, | Christian Christensen, | Ludwig Suhrke, |
| Samuel F. Atwood, | Wm. H. Staker, | Ephraim T. Williams, |
| George Tribe, | Amasa Mikesell, | Daniel Daniels, |
| Manly Barrows, | Richard Carlisle, | Abinadi Pratt, |
| Alfred Randall, Jr., | Edward Pugh, | Edward Cox, Jr., |
| Richard Morris, | James Hague, Jr. | John S. Gressman, |
| Smith Thurston, | John Gregory, | Walter Conrad, |
| David Milne, | Mark Burgess, | Jasper Conrad, |
| John Heiner, | Warren Hardie, | James K. Baldwin, |
| Joseph Asay, Sen., | William Miller, | James L. Bess, |
| Walter C. Brown, | Abraham A. Kimball, | William H. Bess, |
| Edwin Asay, | Ethan Burrows, | William Wood, |
| Joseph H. King, | Henry P. Houtz, | James L. Tibbetts, |
| Isaac Asay, | John I. Lamb, | Preston A. Blair, |
| Elijah Fuller, | W. M. Rydalcch, | Henry Horsley, |
| Joseph Asay, Jr., | Erastus F. Hall, | Albert Keats, |
| Homer Roberts, | Thomas G. Lewis, | Charles M. Johnson. |
| Henry George, | Wm. Heber Clayton, | |

The following named Elders were also called to go on preaching missions: Jesse W. Crosby, Jesse W. Crosby, Jr., George Crosby, John D. Holladay, Wm. C. A. Smoot, Jesse Murphy and David M. Stuart.

Several new settlements were formed in what is now southeastern Nevada by those who went to "the Muddy," but most of these settlements, owing to the excessive heat and unhealthy climate, added to heavy taxation imposed by the Nevadans, were afterwards abandoned. Among them were St. Joseph, St. Thomas and Overton. Those who founded them were not aware at the time that they were in Nevada, but supposed themselves inside the Utah line. "But we knew where we were," said one of them, "as soon as the tax collector came around." Panacca, Lincoln County, Nevada, was founded about the same time as the other

places named, and is still a Mormon settlement. It is situated in Meadow Valley, twelve miles south-east of Pioche, ninety miles from St. George, Utah, and one hundred and ten miles from Milford, the nearest railway station. There are several other small Mormon settlements in that part of Nevada.

An extra effort was made by the Latter-day Saints in the fall of 1867, to raise means to emigrate their poor from Great Britain and other lands. Ever since the settlement of the Saints in the Rocky Mountains each season had added its quota of gathered converts to their ranks, but there were times when "a longer and a stronger pull" was made by the Church, through the Perpetual Emigrating Fund, to bring its scattered members to "Zion." The fall conference of 1867 was such a time. In the following February Elders Hiram B. Clawson and William C. Staines, who had been appointed Church emigration agents, left for the east with \$27,000, to be used for the gathering of the poor. During the year about \$70,000 was raised for the same purpose. The Church teams, sent to the terminus of the Union Pacific Railway—then at Cheyenne—to meet and bring the immigration of 1868, left Salt Lake City in June of that year.* These teams were about five hundred in number, and were in charge of Captains Edward T. Mumford, Joseph S. Rawlins, John G. Holman, William S. Seeley, John R. Murdock, Daniel D. McArthur, John Gillespie, Horton D. Haight, Chester Loveland and Simpson M. Molen.

Some important changes in the field of local journalism occurred about this time. Utah for several years had had two daily papers—the *Telegraph* and the *Vedette*—which waged incessant and spirited warfare against each other; the former being the secular champion of the Mormon people, and the latter the organ of the so-called "Regenerators." In November, 1867, the first number of the

* Salt Lake City, and not Great Salt Lake City, was now the name of the metropolis of Utah. The title had been amended by legislative enactment on the 29th of January, 1868; Great Salt Lake County being abbreviated in like manner at the same time. An act approved on the same day changed the title of Richland County to Rich County.

Deseret Evening News appeared. Prior to this that journal had been conducted as a weekly and semi-weekly. George Q. Cannon, one of the ablest journalists that Utah has ever had, was the editor of the *Evening News*. Mr. Cannon had already founded, in January, 1866, his now flourishing magazine, *The Juvenile Instructor*. Early in 1868, the first number of "*Our Dixie Times*," was issued. It was a small weekly, edited and published by Joseph E. Johnson, at St. George, Washington County. In the following May it changed its name to the *Rio Virgen Times*. In January of this year the *Utah Magazine*, a monthly, began to be published at Salt Lake City. Its proprietors were William S. Godbe and E. L. T. Harrison; the latter being the editor. Mr. Harrison and his friend Edward W. Tullidge had previously embarked in a similar literary enterprise, which, however, was not destined to survive the period of its infancy. As early as October, 1864, they published the *Peep o' Day*, a magazine of science, literature and art,—probably the first of its kind published west of the Missouri River. The humble sanctum of these, our pioneer magazine editors,—and they are among the ablest and best known of Utah's *literati*,—was in the Twentieth Ward, Salt Lake City, but the *Peep o' Day* was printed at the *Vedette* office, Camp Douglas. It expired almost at its inception and was eventually succeeded by the *Utah Magazine*. Nor should a bright little sheet called *The Curtain*, edited by E. L. Sloan, be forgotten. It was gratuitously circulated, and was published in the interests of the Salt Lake Theater. *The Curtain* and *The Juvenile Instructor* share the distinction of being the first publications in Utah to employ women as compositors. Among the earliest of these were Misses Rosina M. Cannon, Eliza Foreman and Vienna Pratt.

On the 22nd of June, 1868, at his home in Salt Lake City, died Heber C. Kimball, the second of the first Three Presidents of the Church of Jesus Christ of Latter-day Saints, and one of the most remarkable characters that Mormonism has produced. A brief sketch of the earlier portion of his life was given in Volume One of this history, and his record from that time has been more or less

interwoven with the general narrative hitherto pursued. His eventful, honorable, and in many respects peculiar career has been fully portrayed in the author's "Life of Heber C. Kimball." He stood as a strong and towering pillar in the midst of his people, and though "a diamond in the rough," unpolished save by the attrition of Nature's school, the university of experience, in native intelligence, in spiritual and prophetic power, he shone among the brightest of his compeers. His was an original nature, replete with eccentricity. Sometimes severe, especially when rebuking what he deemed to be wrong, he was nevertheless generous, charitable and philanthropic. At times pensive and melancholy, and at other times bubbling over with mirth, his philosophic wisdom and quaint humor found vent on all occasions. Though no rhetorician, except for an occasional happy phrasing, he was full of poetic sentiment and imagery, a very fountain of prophecy, and seldom if ever failed to edify and hold the attention of his hearers. Physically no less than spiritually he loomed a stalwart among his fellows; a man of sublime courage, of unfaltering faith and strict honesty of heart and purpose. Even the Gentiles, as a rule, esteemed him, while among his own people, next to Joseph and Hyrum Smith and Brigham Young, no name is more revered than that of Heber C. Kimball.

His death—at the age of sixty-seven—was superinduced by a serious fall, he having been accidentally thrown from his carriage a few weeks previously. Paralysis ensued, and the end soon came. The obsequies of President Kimball were held in the large Tabernacle on Wednesday, the 24th of June. Throughout the city and Territory flags were draped and hung at half mast, in honor of the noble dead, and on all sides and among all classes sincerest sentiments of sorrow and esteem were freely expressed. It rained heavily, but fully eight thousand people, including prominent men from all parts of Utah, assembled to witness or take part in the funeral services. The speakers were Apostles John Taylor, George A. Smith, George Q. Cannon, President Daniel H. Wells and President Brigham Young. The remains, followed by a vast concourse, were conveyed to


President Kimball's private cemetery, where they were laid to rest beside those of his wife Vilate, who had preceded him into the spirit world only eight months before. A handsome marble shaft still marks the spot where reposes the sacred dust of him above whose bier it was said by his leader and life-long friend, Brigham Young: "He was a man of as much integrity, I presume, as any man who ever lived. I have been personally acquainted with him forty-three years, and I can testify that he has been a man of truth, a man of benevolence, a man that was to be trusted."

Heber C. Kimball's successor in the First Presidency was George A. Smith, one of the Twelve Apostles. He was chosen First Counselor to President Young at the general conference of the Church, October 6th, 1868, and the vacancy thus created in the council of "the Twelve," was filled at the same time by the calling of Brigham Young, Jr., to the Apostleship.

CHAPTER IX.

1865-1869.

THE BLACK HAWK WAR—INCIDENTS OF THE INDIAN CAMPAIGNS—BARNEY WARD KILLED—MASSACRE OF THE GIVEN FAMILY—COLONEL IRISH TREATS WITH THE FRIENDLY TRIBES—GENERAL SNOW'S FIGHTS WITH THE HOSTILES—THE ATTACK ON FORT EPHRAIM—THE BERRY FAMILY KILLED—TREACHERY AND DEATH OF THE CHIEF SANPITCH—COLONEL HEAD SUCCEEDS COLONEL IRISH AS INDIAN SUPERINTENDENT—THE UNITED STATES MILITARY AUTHORITIES REFUSE TO AID THE SETTLERS AGAINST THE SAVAGES—"THE MILITIA MUST COMPEL THE INDIANS TO BEHAVE"—THE TERRITORIAL TROOPS TAKE THE FIELD—GENERAL PACE ENCOUNTERS BLACK HAWK AT GRAVELLY FORD—THE INDIANS PURSUED INTO THE DESERT—A TOILSOME AND FRUITLESS CHASE—THE THISTLE VALLEY FIGHT—ATTACK ON THE LEE RANCH, NEAR BEAVER—HEROIC AND SUCCESSFUL RESISTANCE OF THE BESIEGED—THE NAVAJO INCURSION—DEATH OF MAJOR VANCE AND SERGEANT HOUTZ—MORE FIGHTING IN SANPETE—STATUS OF THE MILITIA AND COST OF THE WAR—THE NATION'S DEBT TO THE TERRITORY UNPAID—THE WADE BILL—END OF THE BLACK HAWK WAR.

 HE drunken act of a resident of Sanpete County, who at Manti on the 9th of April, 1865, insulted an Indian chief by rudely pulling him off his horse, precipitated a desultory but sanguinary conflict with the savages that lasted during several seasons and is known in Territorial history as the Black Hawk war. The restless chieftain of that name had gathered around him a band of turbulent spirits, principally Utes, and had prosecuted a series of lively raids upon the herds of the settlers in Sanpete, Sevier and adjacent counties. The success of his forays, and the fact that no organized retaliation was attempted by the whites, caused rapid additions to his following; and as his visitations increased in frequency and boldness, a feeling of genuine alarm began to oppress the scattered and ill-protected people.

The Indian agent in Sanpete at the time was Fred J. Kiesel—since mayor of Ogden—whose prudence in withholding the supply of powder and lead from the savages and giving it to the settlers,

helped the prospect somewhat; but the situation was very strained, and the witnesses to the indignity offered the chief at Manti, as already noted, felt that the affront had furnished the spark to kindle the Indian vengeance into full fury. Learning later in the evening that a raid was contemplated upon the cattle of the settlement, a small body of horsemen started for the feeding grounds. Early next day they encountered the Indians, who opened fire, killed a young man named Peter Ludvigsen, put his comrades to flight, mutilated his body, and then made off with a herd of stock. Hostilities now being formally opened, the victorious band broke for the mountains to the southeast. Near Salina, Sevier County, on the same day, they killed and scalped two men, one being the veteran Barney Ward, the other a Mr. Lambson, and drove off a large number of stock into the adjoining canyon. A company of cavalry was quickly mustered into service and under Colonel Allred started in pursuit; but having chased the savages ten miles into the mountains, they were compelled on the 12th to retire before the deadly fire of the ambushed foe, with the loss of two men killed, Jens Sorensen and William Kearns, and two wounded. Reinforcements having been received, another advance was ordered two or three days later, when the bodies of the two militia men were recovered and the Indians were pursued into the rugged country between Fish Lake and Grand River. A spirited engagement took place and the Indians were repulsed with heavy loss.

The salutary effect of this punishment was not enduring, however, and in the latter part of May another descent was made upon the Sanpete settlers. On the evening of the 25th Jens Larsen was shot and killed while gathering up his sheep about four miles north of Fairview. Between daylight and sunrise of the 26th, the same murderous band attacked John Given and family who had moved up Spanish Fork Canyon into Thistle Valley and intended locating there for the summer. Besides Given and his wife, the party consisted of his son John, aged nineteen, his daughters Mary, Annie and Martha, aged respectively nine, five and three years, and two men named

Leah and Brown. All were sleeping in a hut constructed of willows, Leah and Brown being in a wagon-box at one end. The former was awakened by hearing the cattle running wildly down the canyon, and shortly thereafter the firing of the Indians through the brush of the hut apprised him of the cause of the alarm. To their concealed position in the wagon-box the two men owed their escape. The other occupants of the hut were speedily killed, the bloodthirsty Indians completing with arrows and tomahawks the work which their first volley had begun. Quickly gathering up the flour, axes and guns of their victims, they surrounded a herd of stock, and after killing the calves, drove off between one and two hundred head of horses and cattle into the mountains. Three days later, the 29th, David H. Jones, a member of the Mormon Battalion, was killed about three miles northwest of Fairview by a remnant of the same band.

Colonel O. H. Irish, Superintendent of Indian Affairs, had previously called upon Governor Doty and he had asked the military authorities at Fort Douglas for assistance in repelling these attacks and protecting the settlements. But he was brusquely informed by the commandant at the Fort that the settlers must take care of themselves—the California volunteers had no other duty than to protect the overland mail route. Steps were accordingly taken to muster a few companies of cavalry in the southern counties, and Superintendent Irish promptly proceeded to conclude a treaty with such of the Indian chiefs as appeared friendly. The personal influence of President Young contributed materially to his success in this direction; and at a meeting held at the Spanish Fork reservation farm on the 8th of June, at which speeches were made by Colonel Irish, President Young and others of the whites, and by Kanosh, Sowiette, Sanpitch and Tabby in behalf of the Indians, the treaty was accepted and the chiefs announced their willingness to sign it. Next day another meeting was held, more speeches were made, and fifteen chiefs attached their signatures to the treaty; Sanpitch, a brother of Walker and Arapeen, of earlier notoriety, alone refusing to sign. He relented, however, a few days later,

probably being urged thereto by the generous presents distributed among his associates. By the terms of this treaty the Indians promised to move to Uintah Valley within one year from the ratification of the agreement, giving up their title to the lands they were then occupying. They were required to be peaceful and not go to war with other tribes except in self-defense, nor to steal from or molest the whites. They were to assist in cultivating the reservation lands and to send their children to the schools established for them. On its part the United States government promised to extend its protection to them; farms were to be laid out, grist and lumber mills built, schools established, houses furnished and annuities paid to the principal chiefs: and to the tribes \$25,000 annually for the first ten years, \$20,000 annually for the next twenty years, and \$15,000 annually for thirty years thereafter were to be distributed. The Indians were also to be permitted to hunt, dig roots and gather berries on all unoccupied lands, to fish in their accustomed places, and erect houses for the purpose of curing their fish. On the 18th of September of the same year Colonel Irish successfully negotiated a similar treaty with the Piede Indians at Pinto, Washington County.

Meanwhile the hostiles were not inactive, and notwithstanding the vigilance of the settlers and the militia, frequent raids and occasional murders were still perpetrated. Some of the smaller settlements were entirely deserted, and the herds of stock which had formerly ranged freely over the mountains' grassy sides were collected in the valleys near the larger villages where they could be closely watched. Lurking in the adjacent fastnesses the Indians would swoop down in the night time or at an unexpected moment, and almost before the startled settlers were aware, or before the local home guard could be collected to repel the sally, the bold marauders would be safe from pursuit in the rugged country through whose passes and defiles they successfully drove their stolen cattle. The season's work yielded them as plunder two thousand head of cattle and horses; in obtaining which they had killed, either by massacre or in fight, between thirty and forty whites, including men, women

and children. Black Hawk's own numbers in the beginning had not exceeded two or three score warriors; but his successes gave prestige to his name and strength to his following, so that although he lost about forty braves during the campaign, his force at the end exceeded a hundred men, and when he retired for the winter toward the Colorado River he had beef and horses for all who wished to join him. Other raids during the year 1865, besides those mentioned, were made near Salina, Sevier County, on the 14th of July, when Robert Gillespie and his companion, a man named Robinson, were killed; and at Glenwood, in the same county, July 26th, when a man named Staley was killed and all the stock of the settlement driven off. Between these two incursions, General Warren S. Snow with two companies of cavalry pursued a party of hostiles into the mountains east of Sanpete Valley, and killed fourteen of them, following the remainder of the band toward Grand River until his own command was well-nigh exhausted by the long marches and incidental privations. The same officer fought a sharp battle with another band near Fish Lake on the 21st of September, killing seven and routing the survivors. Himself and two of his men were wounded in the encounter. The last important raid of the year was made upon Fort Ephraim, Sanpete County, on the 17th of October, when Morten P. Kuhre and wife, a girl of seventeen named Elizabeth Petersen, William Thorpe, Soren N. Jespersen, Benjamin J. Black and William T. Hite were killed, two men seriously wounded and two hundred head of stock stolen.* Two or three minor visitations, in which the enemy drove off a number of horses and cattle, concluded the season's operations, and the snows in the mountains having compelled the Indians to seek winter quarters, the settlers were able to venture into the canyons for their supply of winter's wood.

Spring generally comes early in the extreme southern part of

*In one of the raids on Ephraim, Bernard Snow, the veteran actor, who was building a mill at the mouth of the canyon, near the settlement, sustained during several hours a lonely but heroic siege. The savages surrounded the mill, but the gallant defender kept up a fire so vigorous that they were forced to retire.

the Territory, and the Indians signalized its advent by a descent, January 8th, 1866, upon the Pipe Springs ranch, just over the Arizona border, killing Dr. J. M. Whitmore and Robert McIntyre of St. George, Washington County, Utah. The murderers in this instance were Piedes. Evidently thinking themselves secure from pursuit in that sparsely settled region, they remained in near proximity to the scene of the massacre until the 20th, when a company of armed settlers from St. George came upon them encamped in a narrow gulch and slew seven of them. Another ranch on Short Creek, in the same county, on or about the 2nd of April was the scene of another massacre, the victims being Joseph and Robert Berry and the latter's wife, who were attacked as they were mounting their wagon. They maintained a running fight for two miles, during which the young chief, a Navajo named Panashank, was killed, and there were evidences that several of the assailants were wounded.

As the snows began to disappear the savages farther north resumed their predatory operations, and the settlers in Piute, Sanpete and Sevier counties were again put in the utmost peril. Early in April assistance had been asked from neighboring counties, and one of the first to respond was Iron County, which sent twenty-four men with teams to help build a fort on Sevier River for the protection of the settlers. General D. H. Wells recognized in the movements of the hostiles the indications of a disastrous war, and at once ordered all the available men of the three threatened counties to be mustered into service as cavalry and infantry and organized for defense. But no vigilance was equal to the task of defeating the designs of the sleepless foe, the strength of whose force, now increased to over three hundred warriors, and the celerity of whose movements defied every precaution. About the 13th of April, Black Hawk with thirty mounted followers intercepted four teams from Glenwood, Sevier County, moving northward toward Salina. The teamsters escaped, but a sheep-herder near by was killed, as was also the man in charge of a cattle herd. A ten-year-old brother of the

latter herdsman was shot with seven arrows and left for dead; but when his assailants were gone the little hero managed to wade the Sevier River, through water up to his neck, and made his way home. The people of Salina vainly attempted to save their stock. Their loss by this foray amounted to two hundred head. Soon afterward the settlement at this place was abandoned, the people moving north into the larger towns of Sanpete.

The chief Sanpitch, who had been so reluctant to sign the treaty drawn up and presented to his fellow-chieftains at Spanish Fork on June 8th of the previous year, was quick to violate his pledge when opportunity offered; and Black Hawk's successes proved sufficient to seduce him from his allegiance. He joined in some of the depredations planned by the renegade leader, though not with the latter's good fortune, for in one of his sallies he was taken prisoner. He contrived to escape, but four of his companions who had aided him to regain his liberty were pursued into the mountains between Sanpete and Juab Valleys and on the 16th of April overtaken and killed. The same fate overtook Sanpitch two days later between Moroni and Fountain Green.

On the 22nd of April two men named Hakes and West, who had been of the party from Iron County engaged in strengthening Fort Sanford on the Sevier, had an encounter at that place with a couple of Indians, emissaries of Black Hawk. One of the latter was wounded and the other killed, Hakes receiving a severe gun-shot wound in the shoulder. Immediately afterward a number of Piedes who were encamped near the fort gave up their arms and approached the settlers with overtures of peace, their offers being accepted. The settlers at another point, thinking the movement genuine and general, visited a neighboring Indian camp to induce a cessation of hostilities, only to receive a volley of arrows, slightly wounding several of their number. They returned fire with their muskets, killing two, and capturing two of the savages and putting the rest to flight. On the evening of the 22nd of April, near Marysvale, Piute County, another band attacked a small party of settlers, killing

Albert Lewis and wounding three others, and then made their escape into the mountains. Near Circleville in the same county they were intercepted by a company of local militia and routed with considerable loss. About the 29th, near Fairview, Sanpete County, Thomas Jones was killed and William Avery wounded while on picket guard. It was now deemed prudent to break up the smaller settlements of Piute County, and early in May the people gathered for mutual protection and defense at Circleville.

Meantime Colonel Irish had been succeeded in office as Indian Superintendent by Colonel Franklin H. Head, of Wisconsin, who accompanied Governor Durkee to the Territory, acted for some time as his private secretary, and was confirmed as Superintendent of Indian Affairs in March, 1866. Like his predecessor, Colonel Head was an energetic official, and early in April, after consultation with Governor Durkee, he called upon Colonel Carroll H. Potter, then commanding the United States troops in the District of Utah, for military aid. Colonel Potter telegraphed to Major-General Dodge, at Fort Leavenworth, for instructions, and by that officer the subject was laid before General Pope, the department commander. The latter's decision as communicated to Colonel Potter from General Dodge, May 2nd, was that "the Superintendent of Indian Affairs will have to depend for the present on the militia to compel the Indians to behave." Before this message had been communicated to him, Colonel Head, in company with Governor Durkee, had paid a visit to the Indians at Corn Creek, Millard County, and succeeded in obtaining from them renewed assurances of peace. He also visited the Uintah reservation, to which some of the Indians had by this time removed, and his arrival appears to have been very timely, for Tabby and his braves were about to join with the notorious Black Hawk in his raids upon the southern settlements. The visit resulted in holding the reservation Indians to their neutrality.

On returning from this journey and learning the decision of the military authorities, Colonel Head went into immediate consultation with Governor Durkee and Lieutenant-General Wells as to

the course to pursue. General Wells had returned on the 7th of October, 1865, from an absence in Europe, and had made it an early duty to revivify and reorganize the militia of the Territory. Several changes had taken place among the officers and there was felt to be need for reconstructing some of the districts and awakening the interest which since the campaign of 1857-8 had found little occasion for exercise. Adjutant-General James Ferguson, whose untimely death occurred on the 30th of August, 1863, had been succeeded a short time previous to his demise by General Hiram B. Clawson; and the resignation of Major-General George D. Grant having been accepted, at the general muster of the militia of Great Salt Lake County held at Camp Utah, near the Jordan, southwest of this city, on the 1st, 2nd and 3rd of November, 1865, Colonel Robert T. Burton was elected to that office. During the same autumn other musters were held in various parts of the Territory. The spring of 1866 found the military spirit at its highest pitch; division, brigade and regimental musters and elections were held in almost every county, and the reorganization of the entire militia was effected. Among the promotions and changes occurring about this time may be mentioned the election of Brigadier-General Brigham Young, Jr., Salt Lake County; Brigadier-General Lot Smith, Davis County; Major-General Aaron Johnson and Brigadier-Generals William B. Pace and Albert K. Thurber, Utah County. The interest manifested on these occasions explains the readiness with which the call to arms was responded to and the efficiency of the service rendered in the Indian campaign of 1866 and 1867.

The earliest calls upon the northern counties had not been for armed assistance to chastise the renegades and wreak vengeance upon them, but for men to aid the settlers in protecting themselves and their stock until they could reach places of safety. But the increasing boldness of the marauders rendered decisive action necessary. The entire abandonment of the southern counties, to be followed by a general Indian war, seemed to be the only alternative.

Steps were accordingly taken to place all the settlements south and east of Salt Lake City in a state of defense, and troops were ordered to the scene of hostilities. By the 1st of May, 1866, several companies from Davis, Salt Lake and Utah counties were on the march, and on arriving in Sanpete County they reported to Brigadier-General Warren Snow. A company of cavalry from Salt Lake City under Colonel Heber P. Kimball and Major John Clark reached Manti on the 5th of May, and were ordered to march up the Sevier River and assist the settlers in moving down into Sanpete. They displayed great energy and succeeded in delivering the exposed settlers, after which for a short time they were stationed at Fountain Green. About the 10th of May a company of cavalry, A. G. Conover, captain, reached the scene of hostilities from Utah County, and were ordered to occupy a picket post on the Sevier, near Salina, under command of Brigadier-General William B. Pace. While encamped at this point word was received that Black Hawk with a band of warriors had made a raid on Round Valley, Millard County, killing James Ivie and Henry Wright, and running off three hundred head of horses and cattle. As it was known that the route of the victorious band would lead them toward Salina, preparations were made to intercept them at the Sevier, and at Gravelly Ford. General Pace's command met the invaders. A hot skirmish, lasting three hours, was fought with uncertain success to either side, though the main object of the militia—the recapture of the stolen stock—was defeated through a shrewd movement by a number of the Indians who forced their plunder into Salina Canyon while their fellow-warriors kept the troops engaged in front. When the tide of battle seemed turning in favor of the whites, though their ammunition was by this time exhausted, a cloud of dust from the direction of Round Valley suggested to the militia that more Indians were approaching. A retreat was therefore ordered. Black Hawk's good fortune had again befriended him. The approaching horsemen were a company of Fillmore cavalry, seventy strong, under Captain Owens. Before they could effect a junction with General Pace, the

slippery foe were safe in their mountain fastnesses. The casualties of the engagement were one militiaman (Henry Jennings) wounded, and several Indians reported killed—the chief himself receiving a slight wound. News of this fight having been received by General Snow at Manti, Colonel Kimball with his cavalry, then at Fountain Green, was ordered to report at once to headquarters. In thirty minutes the command was in the saddle, and before daylight next morning was at Manti, where it remained most of the day under waiting orders until reinforcements should arrive from Mt. Pleasant. That night a short march was made and the combined forces, now under personal command of General Snow, went into camp. The impatience of the men, who wanted to overtake the enemy by forced march and engage him, could hardly be restrained by the more cautious commander, who, taught by past experience, had no relish for rushing recklessly into a possible ambushade. The march was resumed next morning, and at noon the troops came upon the previous night's camping ground of the Indians, in a canyon at the western edge of Castle Valley. A council of war was called, and though the younger officers and the majority of the men were in favor of an advance at the best possible speed, the General's decision was that without heavy reinforcements it would be imprudent to continue the chase. Further pursuit was accordingly abandoned. In the meantime Lieutenant-General Wells, leaving Salt Lake City on the 11th of June, reached Gunnison accompanied by a body of cavalry under Colonel John R. Winder, followed by a company of infantry from the regiment of Colonel S. W. Richards, under command of Major William W. Casper and Peter Sinclair, battalion adjutant, with Jesse West as captain and Alexander Burt, Byron Groo and others as lieutenants. The cavalry force was assigned to patrol duty along the Sevier, and the infantry detailed to the settlements of Sanpete. Colonel Winder was immediately assigned to duty as assistant adjutant to General Wells. The latter gave orders that the pursuit of Black Hawk should be at once resumed, and another effort made to recover the stock. The trail of the

savages was again struck, and after passing the point where the pursuit had been abandoned, the troops found that they had been at that time within twelve miles of the enemy and the stolen cattle. A longer march confronted them now, and one beset with many difficulties. The trail was followed over rocky ridges, up and down almost impassable gorges, across occasional streams of alkali water and into the most forbidding and desolate of deserts. The conclusion of the first day's march found men and animals well-nigh exhausted from the trials of the journey, all having suffered intensely from thirst. During two days more and the larger part of two nights the toilsome march continued; and when the futility of further pursuit was recognized and the condition of the troops was seen to be so perilous, a retreat was again ordered. It was none too soon. The command was scarcely able to get out of the desert, owing to weakness of both horses and men. Of the latter there were several whose mouths and tongues were so sore that they could scarcely speak.

A few days later, Captain Albert P. Dewey of Colonel Kimball's command was ordered to establish a post in Thistle Valley, in the north end of Sanpete,—a point that was the key to any probable attack from that direction. His command consisted of twenty-two cavalry and thirty-five infantry, the latter under Captain Jesse West, who started from Moroni on the 21st of June. On the evening of the 23rd the Indians gave indications of their presence in the vicinity, but extra precautions were taken to guard against any surprise, and the night passed in quietness. Next morning about 10 o'clock a shot rang out from the adjacent cedars, and Black Hawk and about fifty warriors made a lightning descent upon the post, waving red blankets and stampeding the baggage animals. By this shot Charles Brown, of Draper, Salt Lake County, who with another man was in the cedars picking gum, was killed. The attack made upon the post was repulsed with great gallantry, and the Indians took to cover, whence they repeatedly sallied forth upon the camp, only to be driven back. Later in the afternoon, Black

Hawk received reinforcements, and at the head of one hundred warriors made another assault, wounding Thomas Snarr, of Salt Lake City, but inflicting no further damage. About dusk the enemy drew off, just when they were in high hopes of capturing the post, white reinforcements having come from Mt. Pleasant in response to dispatches from Captain Dewey, who after the first charge sent two men mounted on the best horses in camp to that point, eighteen miles distant, and to his superior officer, Colonel Kimball, then at Twelve-Mile Creek, near the Sevier. The couriers who took this perilous ride were Homer Roberts and John Hamilton; and how successful they were in their mission is proved by the timely arrival of Colonel Ivie with his Mt. Pleasant cavalry, and the coming early next morning of Colonel Kimball and his command. About the same time Major Casper came upon the scene from Moroni and General Snow from Manti. With this force the pursuit of the retreating savages was hotly begun, their trail being plainly marked by the blood from their dead and wounded, whom, in accordance with their custom, they bore away with them. The chase lasted until Soldier Summit, at the head of Spanish Fork River, was reached, where, the Indians resorting to their old tactics of separating and scattering in all directions, it had to be abandoned. This was the last military event of importance in Sanpete County that season, and a few weeks afterward the larger part of the troops from the northern counties, most of whom had been in service from sixty to ninety days, returned and were mustered out. They had conducted themselves with much patience and bravery, and had rendered invaluable service to the settlers in the threatened counties. General Wells and his officers showed good judgment in their disposition of the troops, and inspired confidence throughout the entire district. It was felt that against leaders of less watchfulness and prudence the crafty Black Hawk and his braves would have been able to cause far greater losses in life and property.*

* While the Indian troubles in Sanpete County were in progress, Superintendent Musser, of the Deseret Telegraph Line, was actively engaged extending that system from

But with the withdrawal of the outside militia, the efforts of the local organizations were not relaxed. The men rendered uncomplaining service on picket guard and in occasional reconnoissances into the mountains, and the officers were vigilant and full of energy. Their scanty crops had to be harvested, the winter's supply of fuel gathered, protection furnished their remaining flocks and herds, and winter forage provided. All this work had to be performed by men under arms or attended by an armed escort. And when it is remembered that the sleepless foe ranged over and ravaged a district three hundred miles in extent, burning saw-mills, ranges and isolated ranches, and causing the abandonment of a number of flourishing villages, the heroism of the settlers in resisting by night and by day the sudden and terrifying attacks of the marauders is worthy the warmest praise. In nearly every part of the Territory regular guard duty was ordered. Even in Salt Lake County, the Lieutenant-General issued orders as early as May to Major-General Burton to have patrols out for the protection of stock and to observe the movements and temper of the Indians. In the settlements on the west side of the Jordan there was much regular work of this character under the organization of increased military companies during the early summer. Utah County, populous and well prepared though it was, did not entirely escape. One fatal assault took place on the 16th of May when a party of ten Indians swooped down from the mountains near Spanish Fork, killed Christian Larson who was herding cows upon the bench, and made off with nearly two hundred head of horses from the vicinity. Earlier in the same month a raid was made upon the horse herd of the friendly Indians at Corn Creek, Millard County. The thieves

Manti southward. The wires were strung under his personal direction, the militiamen rendering efficient aid in putting up the poles, stretching the wire and establishing stations. The telegraphic line was of great service to the troops in their operations, and strange to say was never molested by the savages, either in that part of the Territory or elsewhere, they being ignorant of the use made of it against them, or else too superstitious to interfere with the lightning messenger.



L. H. G. J. 1860.

W. L. M. Allen.

were pursued for several days by Kanosh and some members of his band, but were not overtaken. On the 18th of May a band of marauders raided Provo Valley—Wasatch County—and at the second attempt succeeded in driving off a herd of horses. Members of the local militia organized an earnest but fruitless pursuit, and a few days later, when visiting the county for the purpose of reorganizing the militia, General Burton, his aid, Colonel Ross, and a party of cavalry thoroughly scoured the surrounding country, but without success. This isolated country was especially threatened on the east, but a number of successful skirmishes by the hardy militiamen soon gave the Indians to understand that what the settlers lacked in numbers they made up in activity and resolution. Iron, Kane, Millard and all the counties south had their own troubles, yet each of them sent aid into Sanpete and Sevier. The most northern point to send such assistance was Davis County, where early in July Brigadier-General Lot Smith mustered a company of cavalry under Captain Bigler for ninety days' service; and as late as October Captain Robert W. Davis and company from Kaysville, started for the Sevier. About the end of July Major General Burton organized another company of seventy-five officers and men in Salt Lake County and hurried them southward under command of Major Andrew Burt, with W. L. N. Allen as captain. These were of Colonel John Sharp's regiment, and were among the last to return home, reaching Salt Lake City early in November. Utah County sent its second company of cavalry in June under Captain Joseph Cluff, Provo, and two more companies in August under Captains Alva Green, American Fork, and Caleb Haws, Provo. Of the various companies and commanders doing duty in their own counties it is perhaps not necessary to speak in detail, though they acquitted themselves with much credit; neither does the present narrative require mention of all the skirmishes had with the enemy in the mountains east and southeast of the main scene of operations. As far south as Washington County, where under instructions of Brigadier-General Erastus Snow a company under Captain James

Andrus had taken the field, and had lost in one expedition Private Elijah Everett, Jr., slain by the savages; and as far north as Cache County, there was the same alert and unceasing watchfulness against hostile inroad or outbreak; and at one time during this troublous year—1866—as many as twenty-five hundred men were under arms. The number killed during the season's campaign was, of the whites, about twenty and of Indians between forty and fifty. The settlers' stock herds were reduced nearly two thousand, and rarely were any of the animals recaptured after once the savages had started them to running. An exception was the raid on the Spanish Fork pasture, before daylight on the 26th of June, in which thirty Indians stampeded forty-five head of horses and cattle. Major William Creer with fifteen men set out in pursuit, overtook and fought the thieves for an hour and a half, when a party from Springville came up and the Indians fled. Nearly all the stock was recovered, but a young man named John Edmiston, of Manti, was killed and Albert Dimick, of Spanish Fork, received a wound from which he died two days later.

The last attack of the year was upon the ranch of John P. Lee at South Creek, eight miles south-east of Beaver, on the 23rd of October. The house, in which were Mr. Lee, his wife, five children, a hired girl aged thirteen and a hired man named Joseph Lillywhite, was surrounded before daylight by a band of about twenty Utes, formerly considered friendly. Their presence was indicated during the entire night by the noisy restlessness of the faithful watch-dog, and even the children's slumbers were disturbed by what seemed to be the howling of wolves, but which in reality was the device adopted by the savages for driving the stock together. The family had always maintained good relations with their dusky neighbors, feeding and treating them with uniform kindness; and it is probable that these relations would have been maintained even during these warlike times had not the Lee ranch, which blocked the pass through which the Indians planned to drive their stolen cattle from the lower Beaver Valley into the elevated pastures and plateaus to

the eastward, constituted an obstacle which they felt compelled to remove. Their murderous purpose was displayed when Lee and Lillywhite, advancing into the dooryard just at daybreak, were fired upon by the surrounding foe. Lillywhite who was known to the Indians to be an expert shot, having frequently engaged with them in friendly target practice, was first singled out for death, and fell with a ball through his breast. He managed to stagger into the house and was a moaning, helpless spectator of the remainder of the exciting scene. Lee was armed with a musket loaded with revolver bullets, and as he retreated toward the house he fired upon a too venturesome savage, who fell dead. Regaining the house where his loved ones were, the doors and windows having been barred by his heroic wife, he prepared for a fight to the death. To one of the assailants who advanced with a pitchfork to pry open the door, he gave the contents of his gun, which Mrs. Lee had reloaded; and to another sent a well-aimed bullet from his pistol. As the third Indian bit the dust the enemy made a furious rush for the house, trying with spades and whatever other implements they could find to force an entrance. Repulsed again, they began to collect poles and brush by means of which they were able to set fire to the roof of the house. This ignited slowly, owing to dampness from recent storms, but dense clouds of smoke rolled into the room, threatening the suffocation of the inmates, and throwing the youngest child, a baby in the cradle, into convulsions.* Gradually the fire made headway, and as the desperate father tore off the burning boards the flames seemed but to spread the faster. The spring was only a short distance away but to venture outside the door seemed only to invite the enemy's marksmanship. Yet something must be done and done quickly. All were unwilling that the father should expose himself,—in his preservation lay their only hope of defense. The eleven-year-old daughter bravely volunteered to bring water—she had previously gone out for the crowbar with

* This daughter, then two and a half years old, is now Mrs. Rose Sutherland, wife of Attorney George Sutherland, of Provo.

which to strip off the blazing slabs—and the flames were soon subdued.* Meanwhile the agonized mother, who, between dressing the ghastly wound of the sufferer and loading the gun for her husband had still time to picture the horrors that seemed to be awaiting them, was approached by her little son with a petition that must have made her blood chill. He begged to be allowed to run to town for help, urging with childish eloquence that he would take the short cut down the gap and along the creek where it was scarcely possible for a pedestrian, much less a mounted man, to make his way; and that he would thus escape the notice of the Indians, who perhaps would not harm him anyway, if they were hiding to kill his father. He finally declared in desperation that he would rather be shot than die in the smoke like a rat in a trap, and he asked this one chance for his life.† The parents' consent was tearfully given, and with him started the thirteen-year-old hired girl, who, however, took the main road while the boy adopted the shorter route down the gap, by which Beaver was only about four miles distant. Barefooted, half-clothed, panting and covered with blood—the little hero had held up the arm of the wounded man in order to lessen the bleeding—the boy needed but to utter the one word "Indians!" when he met the first white man in the Beaver fields. The alarm was sounded and in ten minutes twenty men were riding as fast as

* This heroic girl is Miss Emma Lee, now of Salt Lake City, admitted as an attorney to the bar in May, 1892.

The eldest daughter, then aged seventeen and now Mrs. Mary Black, of Piute County, was handed a small dagger by her mother, with the remark: "The children will be brained, and your father and myself shot down if the Indians break into the house. A fate worse than either probably awaits you—do not suffer yourself to be taken alive." The poor girl sank pale and half-fainting on the bed, whispering, "I could not hurt a fly."

The fourth daughter, aged seven, who, standing half dressed in the doorway, witnessed the first attack, and upon whose memory the whole terrible episode is vividly impressed, is Mrs. Ellen T. Jakeman, of Provo, one of the foremost of literary women in Utah. From her account were obtained the incidents here narrated.

† The boy was at the time nine years old. He is Charles A. Lee, and is now in California.

horses could carry them toward the ranch. So accurately had the child told his story that a conveyance for the wounded man was not forgotten. The relief party first met the girl on the road, who was so insensible to the danger she had just escaped that she was picking gum and flowers by the way. Continuing to the ranch they found the family safe, and while a small escort was sent back with them to Beaver, the remainder divided into two squads and took the trail of the Indians. The latter had retired after the last assault on the house, and drove off all the stock with them. They killed the fat young cattle which could not stand the rapid pace, and by these signs the militia were able to follow them sixty miles, without, however, coming to an engagement.

The Navajoes began operations in 1867 by a raid on the horse herd in Pine Valley, Washington County. This was just after New Year's, and was an intimation of what might be expected in other places. In this instance, however, the success of the savages was of brief duration. Captain Andrus led a party of St. George cavalry in pursuit, overtook the thieves, killed eleven of them and recovered all the horses. On the night of the 18th of January another party of men under Captains Pearce and Andrus came upon a band of Indians who were trying to stampede a herd of stock seven miles south of St. George. The Indians, being well mounted, escaped in the darkness; but the energy of the militia was not without result. Washington County had no further visits from the marauders.

As Spring advanced Black Hawk and his band, from the Elk Mountain region, made their way northward, and as early as the 21st of March raided the pastures of Glenwood and Richfield, situated on opposite sides of Sevier River, and drove off some stock. They killed Jens Peter Peterson and wife, and a Miss Smith, aged fourteen years, daughter of a neighbor, all of whom were journeying across the bottoms from Richfield to Glenwood. General Snow was at the latter place confined to his bed with sickness, but the call upon the militia was promptly responded to and most of the stock was recovered, one man being wounded in the skirmish. Early in the

following month the settlement at Richfield was abandoned, the settlers moving north for safety. The other settlements in Sevier and Piute Counties, two in Iron County and seven, besides many ranches, in Kane County, were deserted about the same time. These early movements undoubtedly saved many lives; for the hostility and strength of the savages left no doubt that they were determined on aggressive measures. Troops were accordingly mustered for home service in the counties of Sanpete, Sevier and Piute, and by orders dated April 15th Lieutenant-General Wells called upon Major-General Robert T. Burton, of Salt Lake County, to raise three platoons of cavalry to march on the 22nd for Sanpete. This detachment, numbering seventy-two men, under command of Captain Orson P. Miles, reported to General Pace at Provo, who had been appointed to succeed General Snow in command of the Sanpete district. On the 22nd of May Captain William L. Binder left Salt Lake City with a small company of infantry and reported for duty to General Pace, whose headquarters were now established at Gunnison. General Pace's own district, Utah County, had also sent a company of cavalry and one of infantry to the front. With these reinforcements and the energetic preparations made by the local troops, it was hoped the savages might be deterred from further depredations. The months of April and May passed without important demonstrations, though a minor engagement occurred on the 22nd of May in which Lieutenant Adam M. Paul, of Miles' Salt Lake cavalry, was wounded. On the 1st of June a small band of Indians drove off forty head of horses from Fountain Green, and were pursued by Lieutenant-Colonel Ivie into Thistle Creek Canyon. Although it was understood that a large war party of savages were in the valley, the advance of the militia was at double-quick, a rear guard being detailed to watch for the expected enemy. The Indians in front took to the mountains after killing or maiming such of the stock as they could drive no farther, and at this juncture the rear-guard reported the approach of a large party of warriors. These proved, however, to be reinforcements from Springtown under Captain Allred, and

from Fountain Green and Moroni under Major Gaymond who awaited Colonel Ivie's return at the mouth of the canyon. How many Indians were killed in the spirited chase conducted by the latter officer is not known; but the losses on the side of the whites were Louis Lund killed and Jasper Robertson wounded, both belonging to Captain Holbrook's Fairview cavalry. This troop under Colonel Ivie's command subsequently kept up a hot chase after the Indians for over two hundred miles.

A melancholy incident of the campaign occurred on the evening of June 2nd, at Twelve-Mile Creek. Major John W. Vance, of Alpine, Utah County, brigade adjutant on General Pace's staff, was returning with Captain O. P. Miles, Sergeant Heber Houtz and Nathan Tanner, Jr., of the Miles' company, from a military drill at Manti to headquarters at Gunnison. At dusk, while halting at the creek to let their horses drink, they were fired upon by ambushed Indians at close range. At the first fire Major Vance and his horse fell dead, and Sergeant Houtz with a groan also fell from his steed as the animal wheeled suddenly out of the creek. Believing their companions both dead, Captain Miles and young Tanner rode rapidly back to Manti, whence a detachment under Lieutenant M. H. Davis of Salt Lake County was ordered to recover the bodies of the dead men. Vance was found pierced with two bullets and lying where he fell, within a few feet of the creek. Houtz had evidently recovered himself a moment after the first fire, for his body, shot with two bullets and seven arrows, lay about five hundred yards from the scene of the ambush. The remains were reverently conveyed to the respective homes of the deceased, where obsequies were conducted over Major Vance on the 5th and over Sergeant Houtz on the 6th of June; the services closing with military honors.

Beaver County suffered from raids on the 14th of June and the 18th of September, in both of which the Indians drove off several hundred head of horses and cattle; and on the 22nd of June the Paragoonah range, Iron County, was swept by the marauders. Major Silas S. Smith and a party gave chase and succeeded in

cutting the Indians off from the mountain passes, a manœuver which caused the thieves to leave their booty and scatter in the hills for their own safety. At dusk on the 21st of July a descent was made upon the stock at Little Creek, near Parowan. The guards gave the alarm, the local cavalry was quickly in motion and again headed off the Indians at the mouth of the canyon, charging them and turning back the stock. The savages re-formed and charged twice, but were finally repulsed. The fighting lasted nearly all night.

Sanpete County had been reasonably quiet for a couple of months, when on the 13th of August the Indians made a descent on the herd-grounds and meadows of Springtown, and drove off a band of horses. James Meeks was killed, Andrew Johnson mortally wounded and William Blain slightly wounded in the fight. Colonel Allred with a portion of the Mt. Pleasant and Ephraim cavalry started in pursuit, overtook and defeated the enemy, who killed some of the stolen horses and abandoned others. It is believed that a number of savages were killed in the engagement. The last casualty of the season occurred on the night of September 4th, near Warm Creek—now Fayette—Sanpete County, where three men of Captain Binder's Salt Lake infantry were on picket duty. Indians stole up in the darkness, and by the light of the camp-fire were able to single out John Hay upon whom they fired with fatal effect. His comrades gave the alarm to eight other men stationed near by, and, bearing the dead man with them, the detachment made good their retreat to the settlement. Soon afterward the Indians withdrew for the winter and the militia were able to devote the few remaining weeks of autumn to the pursuits of peace. During this summer and autumn a stone fort was projected and partly built at Gunnison, for protection against the savages. The remains of this fort, which was never completed, may be seen to this day.

On the 17th of September of this year—1867—Lieutenant-General Wells issued orders for a general muster of the forces in the various military districts of the Territory, which orders were generally observed. At this time Adjutant-General Clawson was

absent in the east, and the duties of his office were performed by Assistant Adjutant-General T. W. Ellerbeck. Colonel Winder, who had acted as General Wells' adjutant in Sanpete, in 1866, assisted in drawing up a report of the operations of the militia during the three campaigns just described, which was presented by General Clawson to the Governor and by him to the Legislature in January, 1868. It is dated December 31st, 1867. From this document it appears that the militia of the Territory consisted of one lieutenant-general with a staff of eighteen officers; thirteen topographical engineers; six officers of the ordnance department; two major-generals, with a staff of fourteen officers; nine brigadier-generals, with fifty officers in the staff; twenty-five colonels and twenty-five lieutenant-colonels with eighty-five officers in the regimental staff; 112 majors with 113 of battalion staff; 236 captains; 228 first lieutenants, 906 second lieutenants; 896 sergeants; 322 musicians; eighty-two teamsters, and 8,881 privates, making a total of 12,024. The cavalry consisted of 2,525; the artillery of 179, and the infantry 9,207; the remainder being the general officers and staff, and topographical and ordnance departments. The arms and equipment of this body were reported as several pieces of artillery, 2,838 horses, 2,476 saddles, 4,926 revolvers, 2,052 swords, 6,960 rifles, 1,719 muskets or shotguns, twenty-five bayonets, 431,375 rounds of ammunition, seventy-seven trumpets, ninety-six fifes and 107 drums.

General Clawson in his report dated February 9th, 1869, to the war department at Washington, tersely tells the story of these military operations and supplies vouchers showing the expenses of the Indian war during the three years to be \$1,121,037.38, not including charges for a vast amount of service in the home guard, which would have materially increased the total. The report bears Governor Durkee's official endorsement,* and quotes from the reports

* Governor Durkee's endorsement was as follows:

EXECUTIVE OFFICE, UTAH TERRITORY,

SALT LAKE CITY, January 9th, 1869.

I, Charles Durkee, Governor of Utah Territory, do hereby certify that the military

and communications of Colonels Irish and Head to the Commissioner of Indian Affairs. Accompanying it also was a memorial to Congress adopted by the Legislature in February, 1868, and approved by the Governor, asking for the payment of the expenses. The document pointed out that Colonel Irish had applied to General Connor for military aid in putting down the renegades, and that Colonel Head had addressed himself to the same effect to Colonel Potter, and that in each instance the request had been refused, whereupon it became necessary to call upon the militia; that notwithstanding their ready response and their energy and courage, six extensive and flourishing settlements in Sevier and Piute counties, four settlements in Sanpete, fifteen settlements in Iron, Kane and Washington counties and two or three in Wasatch County had been abandoned, with an almost total loss of stock and improvements; that about seventy lives had been lost; and that in furnishing its own soldiers, arms, transportation, horses and supplies the Territory had borne a heavy burden; wherefore an appropriation of \$1,500,000, or so much thereof as might be necessary to cover the expenses, was respectfully asked. The petition was never granted, and the just debt of the general government to the then struggling Territory remains unpaid to this day.

In this connection appropriate reference may be made to what is known as the Wade bill, which, although it never passed, was introduced and considered in Congress at the very time that militia companies from nearly all parts of the Territory were performing valiant and uncomplaining service against the savages. The bill takes its name from its parent, Senator Ben Wade, and its introduction, in June, 1866, created far less discussion than so radical a measure would have provoked during any other than the exciting times of the reconstruction period. The bill is worthy of note as

service rendered by the militia of this Territory, comprised in the foregoing accounts, was absolutely necessary, and was therefore sanctioned and authorized by me at the times specified, and that the accounts are just.

CHARLES DURKEE, GOVERNOR.

embodying within itself nearly all the important items of special legislation since enacted in various Congressional laws affecting Utah affairs. It provided for the appointment by the Government of probate judges, the selection of juries and the service of process by the United States Marshal, the regulating of the marriage ceremony—which was declared to be a civil contract—and the recording of certificates; it declared the illegality of church divorces or marriages; required the Trustee-in-Trust of the Mormon Church to annually make a full report of all Church properties, real and personal; held acknowledgment of the marital relation in prosecutions for polygamy to be proof of cohabitation; and aimed at the entire abolition of the prevailing militia system by giving to the Governor the power to select, appoint and commission all officers, either civil or military; to organize and discipline the militia in such manner and at such times as he might direct, and to make all rules and regulations for the enrolling and mustering thereof; it further declared that “all commissions and appointments, both civil and military, heretofore made or issued, or which may be made or issued before the 1st day of January, 1867, shall cease and determine on that day, and shall have no effect or validity thereafter.” As a matter of history this much notice of the sweeping measure is interesting. To comment upon it, since it went into early obscurity, would be obviously unprofitable.

With the close of the year 1867 the Black Hawk war may be said to have ended. That chief, unattended by warriors, had come to the Uintah reservation with his family on the occasion of Colonel Head's visit in July or August of that year. At first saucy and cold, the crafty leader at length unbosomed himself to the indomitable superintendent, and told how many lodges his command consisted of and who his allies were. Finally he expressed a desire for peace, requested Colonel Head to cut his hair for him in token of his abandonment of the war-path, and promised to induce as many as possible of his adherents to join him in peace as they had followed him in war. The raids that ensued that year,

subsequent to this interview, were accordingly set on foot by those whom his commands did not reach or by whom they were not heeded. The same may be said of the hostilities occurring during the year 1868, which, though sufficiently distressing, did not give cause for the alarm previously existing, nor did they necessitate the calling out of the militia from other than the immediate vicinity of the attacks.

The earliest engagement of 1868 occurred at Rocky Ford of the Sevier River on the evening of April 5th, when a company of settlers under Frederick Olson, moving southward with the intention of re-establishing one of the abandoned settlements on that stream, was furiously attacked by about thirty Indians. The whites corralled their animals and made a brave defense for two hours, when the Indians, whose loss was considerable, retired with a few head of stock. The settlers' losses were a man named Justison, killed, and Adolph Thommasen, who started out as courier on a jaded horse and was overtaken by the Indians and seriously wounded. The next day two brothers named George and Charles Wilson, from Scipio, were attacked near the same place and the latter was killed, his body being recovered by a relief party which escorted the emigrants back to Gunnison.* The Scipio horse-herd was raided May 7th by a small but reckless band of Indians who ran off some stock but were glad to abandon most of it under the brisk pursuit of the settlers. On the 11th of July a similar skirmish took place near Fort Ephraim, in Sanpete County. The herdsman resolutely followed the thieves, and recovered most of the plunder. Reinforcements coming up, the chase was renewed, with the result that the cavalry were led into an ambuscade and received a volley which wounded several of them. In other parts of the country scattered stock were driven off by

* A lamentable incident, not a result of the war nor occurring near the scene of aggressive operations, may here be mentioned. A little daughter of G. W. Thurston of Mendon, Cache County, aged two and a half years, on April 7th, 1868, was stolen by Indians prowling in the vicinity. Notwithstanding the most diligent search by the settlers and by friendly Indians, the child was never recovered.

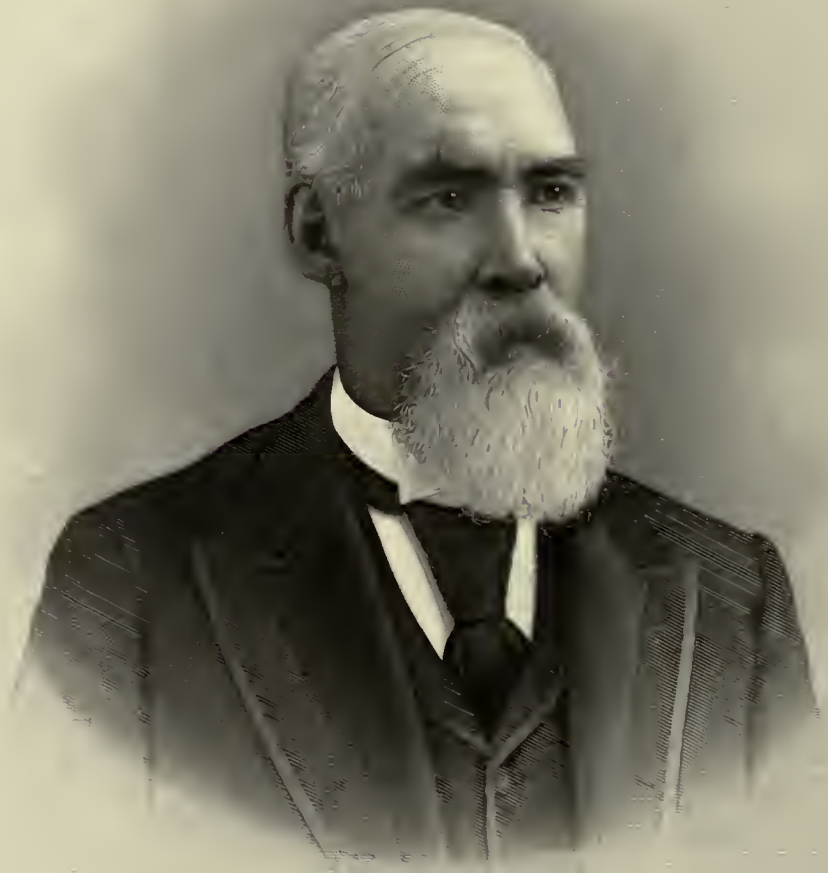
small predatory bands, and the settlers were kept constantly on the alert against more serious surprises.

On the 19th of August, 1868, the energetic Superintendent of Indian Affairs; Colonel Head, succeeded in negotiating a treaty with the sub-chieftains of Black Hawk's band and their still recalcitrant followers. Major Dimick Huntington was interpreter on the occasion, and Black Hawk himself, who had kept his pledge given a year before, lent his presence and influence. The young warriors were loth to bury the tomahawk, and boasted not a little of their prowess and deeds of blood; one of them especially, a handsome, feminine-looking stripling named Aug-a-vor-um, confessing his participation in the killing of Major Vance and Sergeant Houtz and in other more daring and less dishonorable engagements. Of the fellow's courage there could be no doubt. He had been wont to ride a white horse, and as his reckless bravery always led him to the front, where his example served as a command to his associates, he was frequently the mark of the militia sharpshooters, and once when he fell wounded the cry went up that Black Hawk himself had been killed. His defiant eloquence was reinforced at this meeting by that of other hot-heads, but it was patiently met and at length entirely overcome by the persuasion and threats of the peace party. The treaty was signed and it is believed was faithfully observed, although peace was not completely restored until after the summer of 1869. The earliest signs of trouble during this year came from the south-west where the turbulent Navajoes were the predominating tribe. A band of them invaded Southern Utah in the latter part of February and drove off the herds from Washington and Harrisburg. A party of militia started in pursuit, recovered some of the stock and drove the thieves beyond the Colorado.*

* The murder by Indians of a highly respected citizen of Utah, Franklin B. Woolley, of St. George, son of Bishop Edwin D. Woolley, near San Bernardino, California, on the 21st of March of this year, may appropriately be mentioned in this connection. The unfortunate man, who was returning with goods for the St. George store, had separated from the main body of his freight train, and was searching for his horses near the Mohave river, when it is supposed that he was surrounded by a party of about fifteen

About the end of March the oft-afflicted horse-herd at Scipio was successfully raided and over a hundred head of stock were driven off. In the latter part of September the unfortunate county of Sanpete endured a visitation at Fairview with the loss of twenty head of horses. These were the last depredations of consequence, and with them ended all semblance of organized warfare on the part of the aborigines. The war-whoop and the scalping-knife disappeared from Territorial history, and in the very parts most grievously ravaged during the period covered by these campaigns Indian colonies in recent years have successfully and industriously sought the greater achievements of peace.

Indians. He dismounted from his mule to parley with them, but finding that no compromise could turn them from their murderous purpose he sought to make his escape. He fell pierced with arrows after running only a few rods. His slayers stripped off his clothes and dragged his body to a place of concealment, where it was not found until some days later by search parties. The remains were brought home for interment by the brother of the deceased, E. D. Woolley, Jr., now President of the Kanab Stake.




John Sharp

CHAPTER X.

1819-1869.

THE GREAT PACIFIC RAILWAY—HOW THE PROJECT ORIGINATED—HOW THE ROAD WAS CONSTRUCTED—EARLY TALK OF A TRANSCONTINENTAL HIGHWAY—THE MILLS MEMORIAL—DR. BARLOW'S SUGGESTION—ASA WHITNEY'S PLAN AND PROPOSITION—BRIGHAM YOUNG AND THE NORTH PLATTE ROUTE—THE BENTON BILL—THE STANSBURY SURVEY—THE KING PLAN—UTAH'S RAILWAY MEMORIALS TO CONGRESS—GOVERNMENT SURVEYS—CALIFORNIA, UTAH AND NEBRASKA AGITATE THE SUBJECT—IT BECOMES A NATIONAL QUESTION—DEMOCRATS AND REPUBLICANS BOTH FAVOR IT—"A MILITARY NECESSITY"—CONGRESS TAKES ACTION AND PASSES THE PACIFIC RAILROAD BILL—THE UNION PACIFIC AND CENTRAL PACIFIC COMPANIES—THE BUILDING OF THE ROAD BEGUN—ITS PROGRESS EAST AND WEST TOWARD THE GREAT SALT LAKE.

HE all-prevailing topic in Utah at the time touched in our narrative was the coming of the railway. Since January, 1863, the great national highway, which was destined to work so many mighty changes in all the social, commercial and material concerns of the West, had been in course of construction, and was now rapidly approaching from both east and west the vicinity of the Great Salt Lake. Utah with strong hand, joining California and the East, had taken hold of the great enterprise for which she had so long prayed and waited, and with all the power at her command was helping it across the threshold of her mountain-girt domain. In a future volume we may tell more fully the interesting story of this greatest of all railway enterprises. Here, in order to avoid prolixity and preserve conciseness in the general narrative, we can only make mention of some of the most prominent facts relating to its inception and construction.

To whom belongs the honor of first suggesting the idea of a transcontinental railway, uniting the Atlantic and Pacific oceans, it would perhaps be impossible to say. That the thought was

presented simultaneously to several minds is not improbable, and that out of the aggregation of ideas relating to the subject grew the mighty project and its still mightier achievement, is a fact that needs no argument.

Robert Mills, in a memorial to Congress dated February 18th, 1846, claimed to have published in 1819 "a work on the internal improvement of Maryland, Virginia and South Carolina, connected with the intercourse of the States of the West," in which he suggested the union of the Pacific with the Atlantic "by a railroad from the head navigable waters of the noble rivers disemboguing into the ocean."* This, it is perhaps needless to inform the reader, was before a mile of railroad had been laid in any part of the world.†

To many it would seem improbable that such a claim could be true. We give it, however, for what it is worth. It is also said that Dr. Samuel Bancroft Barlow, of Granville, Massachusetts, as early as 1833 or 1834, advocated the construction of a railroad from New York to the mouth of the Columbia River, by direct appropriations from the national treasury.‡ This was but three or four years after the first application of steam to railroading in America. It is claimed, however, that Dr. Barlow's suggestion, which appeared in the Westfield (Mass.) *Intelligencer*, was called forth by a series of articles on the same subject published in the *Emigrant* of Washenaw County, Michigan Territory.§ At Dubuque, Iowa, in 1836, John Plumbe, a Welshman by birth, and a civil engineer by profession, called the first public meeting to discuss the subject of a transcontinental railway. In the year following an article on the

* H. R. Doc. 173, 29th Congress, 1st session.

† The first steam railroad in the world was completed in 1825. It was the Darlington and Stockton, in England, and was thirty-seven miles long. The first railroad in America was begun in 1828.

‡ Vide E. V. Smalley's "History of the Northern Pacific Railroad."

§ Vide General W. T. Sherman's summary of trans-continental railroad construction.

same topic appeared in the New York *Courier and Enquirer*, from the pen of Dr. Hartley Carver.

To Mr. Asa Whitney, however, belongs the credit of formulating the first practicable scheme for the construction of the Pacific Railway. In addresses to state legislatures and in a series of popular meetings he agitated the question from 1844 to 1850. He proposed that the railroad should begin at Prairie du Chien on the Mississippi, cross the Rocky Mountains at South Pass and fix its western terminus on Vancouver Sound, with a branch line running to San Francisco. His proposition was that the road should be built by the sale of the public lands along its line, and he asked from Congress a free grant of alternate sections for a width of thirty miles on each side, to be given to himself, his heirs and assigns for that purpose. Whitney's idea was to establish across North America the route of Asiatic commerce to Europe.

These hints and suggestions were sufficient to set many tongues talking upon the theme, especially after the Pacific coast began to be settled by emigrants from the Eastern States. And yet to most people the idea seemed impracticable and absurd, and though much talked of was treated as a Utopian dream, a romance that would never be realized.

Brigham Young thought it feasible, however, when in the spring of 1847 he with his pioneer companions ascended the valley of the Platte, marking out as he went the route over which he believed the great iron way would eventually pass. That the track of the Union Pacific Railway is laid for hundreds of miles along that very route, pronounced by competent engineers to be the best that could possibly have been selected for the purpose, is only another evidence of the far-seeing sagacity of America's foremost colonizer.

Mr. Joseph Nichols, in his "Condensed History of the Construction of the Union Pacific Railway," speaking of Brigham Young's preparations to lead his pioneer band westward, says: "After every possible and impossible route from each point on the Missouri River between Kansas City and Sioux City had been thoroughly explored

and measured, the shrewd and wily leader, who had more at stake than any man who ever crossed the western prairies, chose the North Platte route. The speed and safety with which he and his followers traversed it show the careful consideration he had bestowed upon the subject and attest a sagacity and prudence which only a thorough knowledge of the country would enable him to employ." Mr. Nichols here takes a view of the matter extremely natural under the circumstances to one not thoroughly conversant with the facts. Shrewd and sagacious Brigham Young undoubtedly was, and very prudent withal, but the statement that he possessed at the time mentioned "a thorough knowledge of the country" he was about to traverse is an error, as is also the assertion that prior to choosing the North Platte route, he caused to be "thoroughly explored and measured" every other route leading westward from the Missouri between the two points named. The records of the Pioneers make no reference to such explorations. Mr. Nichols, whose interesting little book we have perused with pleasure, was evidently misinformed upon this point. Brigham Young chose the North Platte route for his pioneer journey and the after emigration of his people, not from "a thorough knowledge of the country,"—the unknown wilderness into which, trusting in Providence, he was about to plunge,—but from that intuition which so often stood him in stead where knowledge was absent, and which formed one of the most striking characteristics of his remarkable mentality. Intuition may be inborn knowledge, the fruit of past experience, as occult science declares, but it is not the knowledge gained in the present life from the study of our immediate surroundings. Brigham Young knew little or nothing of the route ahead of him and his pioneer followers, but he had faith in God and confidence in his destiny, and as some lonely horseman, uncertain of his course, trusts to the instinct of the noble steed he bestrides and lets him choose the path to be pursued, so he, setting his face toward the unknown West, let fall the reins of will about the neck of fate, and Columbus-like confidingly followed where intuition

pointed out the way. He chose the route in question, and marked out the future path of the locomotive across the plains, just as he a little later selected Salt Lake Valley as the most eligible site for a great city in all the interior basin of North America,—not from any previous acquaintance with the country, but from his intuitive, inborn knowledge that his choice was correct.

Three years after the Pioneers crossed the plains the first Pacific railway bill was introduced into Congress. It was by Senator Benton, of Missouri, who had probably drawn a portion of his idea from his son-in-law Colonel Fremont, the famous explorer, who in 1842 had visited the South Pass, and subsequently Great Salt Lake Valley and beyond, as related in the first volume of this series.* Congress, however, had discussed, incidentally to other questions, that of the Pacific Railroad, years before the introduction of the Benton bill, and, as shown, the subject was already being agitated in state legislatures and public meetings, through the energetic efforts of Asa Whitney and others. Whitney's project was condemned by a Pacific Railroad convention which met at St. Louis in the fall of 1849. The president of that convention was Senator Stephen A. Douglas, who subsequently reported a bill in Congress for the construction of the great railway.

It was doubtless the agitations of Mr. Whitney and others that caused Captain Stansbury—who probably conversed with Brigham Young about the matter—on returning from Utah in the summer of 1850, to survey a railroad route across the plains. A year later Hon. S. B. King submitted a plan for the building of the road, which met with popular favor. He proposed that the Government should guarantee to any company or any persons who undertook and completed the road a net dividend of five per cent. for fifty or a hundred years. The cost of the road was not to exceed a certain sum, its construction was to be under the supervision of an engineer

* Benton said that he hoped to live to see a train of cars thundering down the eastern slope of the Rocky Mountains, bearing in transit to Europe the silks, the teas and spices of the Orient.

appointed by the Government, and the guarantee was not to begin until the road had been completed and equipped for operation.

It was early in 1852, as the reader will remember, that the Utah Legislature first memorialized Congress for the construction of "a national central railroad to the Pacific coast," and for the establishment of a transcontinental telegraph line. This was the first step taken in that direction by the Legislature of the Territory, but a bill for the construction of such a railroad had previously been introduced in the General Assembly of the Provisional State of Deseret.*

In 1853-4 as many as nine railway routes were surveyed across the continent, one of which was that of the Central Pacific Railroad Surveying Expedition, commanded by the ill-fated Captain Gunnison, who with a portion of his party was massacred by the Pauvant Indians on the Sevier. These surveys were authorized by Congress, which had appropriated between three and four hundred thousand dollars to defray the necessary expenses, and were made by order of Hon. Jefferson Davis, then Secretary of War. California by this time was so sanguine over the coming of the great railway, that her Legislature had passed "an act granting the right of way to the United States for railroad purposes."

In January, 1854, a mammoth mass meeting at Salt Lake City took steps toward memorializing Congress for the construction of a railway from the Missouri River to the Pacific coast, via South Pass and Salt Lake Valley. That same month the Utah Legislature had petitioned Congress for the railway, recommending a route across the Bear and Weber rivers to Kamas Prairie, then down the Timpanogas or Provo river, into and across Utah Valley. Nebraska becoming a Territory that year, also began agitating the railway subject through her Legislature. Other legislatures did likewise until finally the attention of the whole country was called to it, and it became one of the leading political questions of the time. Both the Democratic

* Hon. George A. Smith reported this bill. Says he: "Some of the members considered it a joke, though I was never more in earnest."

and the Republican parties in 1856, and again in 1860, made prominent mention of the railway in their platforms and pledged themselves to aid in appropriate legislation. "One of the greatest necessities of the age, in a political, commercial, postal and military point of view," said the Democratic Convention at Charleston, South Carolina, in April, 1860, "is the speedy communication between the Pacific and Atlantic Oceans." The Republican Convention at Chicago, in May of the same year—when Lincoln was nominated for President—declared that "a railroad to the Pacific Ocean is imperatively demanded by the interests of the whole country; that the Federal Government ought to render immediate and efficient aid in its construction, and that preliminary thereto a daily overland mail should be promptly established." Presidents Pierce, Buchanan and Lincoln all made mention of the Pacific Railway in their messages to Congress, and called attention to the necessity of the Government aiding in its construction. Prior to 1860 the legislatures of eighteen states had passed resolutions in its favor.

The main arguments put forth to warrant and render imperative such an institution, were the development of the western country, the attracting of Asiatic commerce across the Pacific and through the United States to Europe, and the protection of the western coast against the possibilities of foreign invasion. The last idea became paramount after the breaking out of the Civil War, it being thought imminent at one time that France and England would form an alliance with the Southern States and help them to gain their independence. It was then that President Lincoln referred to the Pacific Railroad as "a military necessity." Hon. Thaddeus Stevens, of Pennsylvania, said: "In case of a war with a foreign maritime power, the travel by the Gulf and Isthmus of Panama would be impracticable. Any such European power could throw troops and supplies into California much quicker than we could by the present overland route. The enormous cost of supplying our army in Utah may teach us that the whole wealth of the nation would not enable us to supply a large army on the Pacific Coast. Our Western States

must fall a prey to the enemy without a speedy way of transporting our troops."

Had Congress authorized the construction of the great railway prior to the beginning of the war, it is very probable that its eastern terminus would have been fixed at St. Louis, or at some other point in the Southern States, instead of so far north as Omaha, which then had a population of only five thousand souls, and was little more than a frontier town in the midst of a sparsely settled region. Many Southern statesmen, prior to 1860, were in favor of constructing the road on the line of the thirty-fifth parallel, in which event, according to the able and eloquent argument of Creed Haymond, Esq., general solicitor of the Central Pacific Railroad Company, to a select committee of the United States Senate in March and April, 1888, "the South would have been united by rail with the Pacific coast, its population would have been diverted in that direction, and it is not beyond the bounds of possibility that the annual product of the gold of California during the years of the war would have flowed into and enriched the Confederate treasury, while the port of San Francisco might have sheltered its infant navy." But Congress did not act in the matter until after the war broke out, and the power and authority to say where the Pacific Railway should begin, and how it should be built, was then in the hands of the friends and not the foes of the Union.

First came, in 1861, the charter for the Pacific Telegraph, granted to Edward Creighton, of Omaha, and under which the Pacific or Overland Telegraph Line was constructed; being completed to Salt Lake City in the autumn of that year. Then followed the Pacific Railroad act, which, having passed both houses of Congress, was signed by President Lincoln on the 1st of July, 1862.

The sponsor if not the framer of the bill from which this act was created was Mr. Rollins, of Missouri. The design of the act was to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean and to secure to the Government the use of the same for postal, military and other purposes. The

aid rendered by the Government to the companies building the road was a loan of Federal bonds for thirty years,—sixteen bonds, or \$16,000 for each mile of railroad and telegraph line completed*—and a gift of twenty million acres of land. This gift was to include every alternate section of public land designated by odd numbers, to the amount of five alternate sections per mile, on each side of the road on the line thereof, within ten miles of each side,† not sold, reserved or otherwise disposed of. This not being a sufficient inducement to enlist private capital in the enterprise, Congress in 1864 passed an amendatory act, offering still greater inducements, and under its provisions the Union Pacific and Central Pacific railways were built, constituting one continuous line from the Missouri River to the Pacific Ocean.‡

The act of 1862 provided for the creation of the Union Pacific Railroad Company, and named its members, selecting them from all sections of the North. The South, being in rebellion, was of course not represented. The company was not organized, however, until over a year later.

The Central Pacific Company, which was allowed to construct the western portion of the line and share in the advantages of the contract between the builders and the Federal Government, was

* In some places this amount was increased to \$32,000 per mile, and in other places to \$48,000.

† This was afterwards increased to twenty miles for the greater portion of the way.

‡ Says General G. M. Dodge, in his interesting paper on Transcontinental Railways, read before the Society of the Army of the Tennessee at its 21st annual reunion, at Toledo, Ohio, September 15, 1888: "The experience of the war made possible the building of this trans-continental railroad, not only physically but financially. The government, already burdened with billions of debt, floated fifty millions more, and by this action it created a credit which enabled the railroad company to float an equal amount, and these two credits, when handled by men of means and courage, who also threw their own private fortunes into the scale, accomplished the work. If it had been proposed, before the war, that the United States should lend its credit, and issue bonds to build a railroad 2,000 miles long, across a vast, barren plain only known to the red man, uninhabited, without one dollar of business to sustain it, the proposition alone would have virtually bankrupted the nation."

already in existence, having been organized in 1861, under a general law of the State of California. The plucky West, represented by the Golden State, and that State by such men as Leland Stanford, Collis P. Huntington, Charles and Edward Crocker, Mr. Hopkins and Mr. Judah had conceived the idea, as early as 1860, of building with their private fortunes, aided perhaps by the State, a railroad across the Sierras into the heart of the desert Basin, and thence on to meet the advance of civilization from the East. To that end they organized in the year following, the Central Pacific Railroad Company, having previously caused a route for their line to be explored and surveyed across the Sierras. It was in consideration of these facts that Congress permitted that company to share with the Union Pacific the aid granted by the Government.

The Central Pacific Company, having accepted in October, 1862, the conditions of the contract, prepared at once to begin operations, and on the 8th of January, 1863, the first shovelful of earth was turned at the city of Sacramento, it being the western terminus. From that point connection was to be made with the Pacific by steamboats on the Sacramento River. Subsequently, however, the Western Pacific Company obtained a grant to build an extension of the railroad from Sacramento to San Jose. That road, partly completed, was purchased by the Central Pacific people, who pushed it through to the Bay of San Francisco.

Meantime, in the far East, was being organized the Union Pacific Railroad Company. After some delay and a preliminary meeting at Chicago in September, 1862, the organization was formally effected in the city of New York, October, 1863. The officers were: John A. Dix, President; T. C. Durant, Vice-President; John J. Cisco, Treasurer, and Henry V. Poor, Secretary.

Next came the selection of the initial point or eastern terminus of the road. Congress had left that duty to the President of the United States. At this time three railway lines were being extended across the State of Iowa toward Council Bluffs, nearly opposite Omaha. That being regarded as the most eligible place, President

Lincoln decided that it should be the initial point of the Union Pacific Railroad. On the 2nd of December, 1863, a telegram from New York announcing this decision, was received by Peter A. Dey, the company's chief engineer, at Omaha, and that afternoon, in the presence of an enthusiastic throng, the first ground was broken for the building of the main division of the mighty thoroughfare.

Among the speakers at the impromptu celebration arranged in honor of the event was the eccentric orator, George Francis Train, who made a characteristic speech during which he predicted, amid the smiles and laughter of his incredulous hearers, that the railway would be completed before the year 1870.* Congratulatory telegrams were received by the Committee of Arrangements at the celebration from Brigham Young, Governor Stanford of California, Hon William H. Seward, Secretary of State, and other notables.

For the Union Pacific Company explorations westward were made by Surveyors Reed, Dey and Brayton. According to General Dodge, who, in 1853, had made a private survey for a railroad west of the Missouri, Mr. Reed confined his work to crossing the Rocky Mountains to reach the Great Salt Lake Basin.† Operations were then suspended.

Under the provisions of the act of 1862, the Union Pacific Company found it impossible to engage sufficient capital to justify it in pushing forward the great and hazardous enterprise it had undertaken. Consequently, after the breaking of the first ground in December, 1863, further work was postponed. Then came the passage of the act of 1864, to which reference has already been

* Congress had given the companies until July, 1876, to build the road. It was completed in May, 1869, more than seven years within the legal limit.

† In an interview with President Young, Mr. Reed, it is said, was told by the Mormon leader that he might explore all over the country between the Missouri River and the Great Salt Lake and he would find the best route for a railroad would be up the Platte River to the junction of the North and South Platte, then up the North Platte to Platte bridge, over the hills to the Sweetwater, up the Sweetwater to South Pass, through the Pass and then by the most direct route to Green River, thence up the Muddy and by way of Bear River to Echo Canyon and then down the Weber.

made, giving larger aid in land grants, allowing first mortgages to be put upon the road,—said mortgages to be superior to the lien of the United States,—and offering other inducements to the constructors. Thus encouraged, the Union Pacific Company resumed operations.

Grading on its line began in the fall of 1864, and the first rail of its track was laid in July following. In 1865 forty miles of track were laid, in 1866 two hundred and sixty miles, and in 1867 two hundred and forty miles.* Much of this, as already stated, was over the "old Mormon road," up the north bank of the Platte. In order to shorten the route, however, the railway crossed the river near the North and South Platte junction and instead of going through South Pass went over the mountains at a point called Sherman, so named in honor of General W. T. Sherman, by General Dodge, who discovered this new pass over the back-bone of the continent.† Sherman, for years the highest point reached by any railway in the United States, is about 8,240 feet above the sea level. In 1868 and the early part of 1869, which witnessed the road's completion, the Union Pacific Company laid five hundred and fifty-five miles of track. While much of the line was being built Oliver Ames was president of the railroad company and Sidney Dillon president of the construction company, with Oakes Ames and other eastern capitalists

*These and other items are gleaned from General Dodge's paper referred to previously.

† General Sherman had been for many years deeply interested in the Pacific Railway problem, and was a great friend and the ideal hero of General Dodge. Said he at the reunion of the Society of the Army of the Tennessee, already mentioned: "When the Civil War was over you must all remember that I was stationed at St. Louis, in command of all the troops on the western plains as far out as Utah. I found General Dodge as consulting engineer of the Union Pacific Railroad, in the success of which enterprise I felt the greatest possible interest. I promised the most perfect protection, by troops, of the reconnoitering, surveying and construction parties, and made frequent personal visits on horseback and in ambulance, and noticed that the heads of all the parties had been soldiers during the Civil War." General Sherman, it seems, while in California, in 1846, had directed Lieutenants Williams and Warner to survey for a feasible railway route through the Sierra Nevada Mountains.

among its directors and stockholders. At the time of the road's completion, however, T. C. Durant was president of the company; Sidney Dillon, vice-president, and G. M. Dodge, general superintendent.

The Central Pacific Company, prior to the passage of the act of 1864, built thirty-one miles of road, connecting Sacramento with Newcastle, on the western slope of the Sierras, and then suspended labor for lack of funds. After the passage of that act, which improved the credit of the promoters of the enterprise, it was enabled to move on eastward, though great were the difficulties it encountered in crossing the mountains. So much was this the case that although the Central Pacific had built between thirty and forty miles of road before the Union Pacific had finished a mile of grading or laid a single rail, the latter company, after beginning operations, felt confident, notwithstanding the superhuman task it had undertaken, that it would be able to push its line over the Rockies, across Utah and Nevada, and up to the very base of the Sierras, while the Central Pacific was struggling through those mountains. With this end in view the Union Pacific engineers had surveyed their route as far west as the State line of California. The engineers of the Central Pacific had located their line only as far east as the mouth of Weber Canyon.

The railroad from Newcastle across the Sierras to Wadsworth, on the edge of the Nevada desert, a distance of a hundred and fifty-seven miles, was built between February, 1865, and July 1868, with a force averaging between ten and thirteen thousand men. The road from Wadsworth to Ogden,—for the Central Pacific Company, prior to bringing its main line into Utah, in order to avoid delay at the last constructed its grade from a point two hundred miles west of Ogden to the Junction City,—was built between July, 1868, and May, 1869, with a force averaging five thousand men.* It is estimated

*Three miles west of Promontory station a sign-board informs the passer that ten miles of track were there laid in one day, and ten miles farther west a similar sign-board appears. This track was laid on April 29th, 1869, and is believed to be the largest number of miles ever laid in one day.

that fully twenty-five thousand men and six thousand teams were employed along the lines of the two great railways advancing with giant strides to meet each other on the shores of America's dead sea.

CHAPTER XI.

1868-1869.

THE RAILROAD IN UTAH—COMPETITION BETWEEN THE RIVAL LINES—“SHALL THE ROAD RUN NORTH OR SOUTH OF THE LAKE?”—GRAND MASS MEETING AT SALT LAKE CITY, INVITING THE RAILROAD TO COME THIS WAY—BRIGHAM YOUNG ACCEPTS A CONTRACT TO HELP BUILD THE UNION PACIFIC—BENSON, FARR AND WEST ON THE CENTRAL PACIFIC—OTHER UTAH CONTRACTORS—ARRIVAL OF THE IRON HORSE AT OGDEN—THE DRIVING OF THE LAST SPIKE AT PROMONTORY.

STUPENDOUS efforts were made by each of the competing companies—the Union Pacific and the Central Pacific—to determine how far east or west of the Great Salt Lake it would be able to extend its track before meeting that of the rival road. Speed, therefore, next to substantial construction, became the chief desideratum. The aim, of course, was to secure as great a share as possible of the Government subsidy. Hence it was an object with both roads to obtain assistance from the people of Utah.

Says General Dodge upon this point; “Reconnoissances made in 1862-63-64 had demonstrated that a serious question would arise in reaching the Humboldt Valley from the western foot of the Wasatch Mountains in the Salt Lake basin. Should the line go north or south of the lake? The Mormon Church and all its followers, a central power of great use to the trans-continental roads, were determinedly in favor of the south line. * * * But our explorations in an earlier day unqualifiedly indicated the north side, though an exhaustive examination was made south and only one line run north, it being our main line to the California State line surveyed in 1867. The explorations by parties south of the lake, and the personal examinations of the chief engineer, determined that it had no merits as compared with the north line; and on such

report the north line was adopted by the company and accepted by the Government."

That the Mormon people, and not only they but the Gentiles, residing at Salt Lake City and south of that point, were "determinedly in favor of the south line," along which the railway would have run directly through Utah's metropolis instead of passing it by forty miles to the northward, is not surprising. It would have been astonishing had they not been in favor of it. That the road when constructed might run through Salt Lake City had been the substance of their memorial to Congress ten years before the Union Pacific Company had graded any part of its line, and nine years before that company came into existence. For various reasons the citizens of Salt Lake, and of Utah generally, with comparatively few exceptions, were heartily in favor of the railway passing through the chief city of the Saints. In addition to the material benefits, which all classes hoped to derive, the Gentiles were particularly desirous that the civilizing agency of the locomotive should touch Mormonism at its heart's core, in its very stronghold, thus assisting them to the utmost in their mission of "regeneration." The Mormons, on the other hand, all undaunted at the prospect, were just as anxious to have the test applied. They were perfectly willing that the waves of "Gentile civilization" should surge against the walls of "Israel's barbarism;" feeling confident that the issue would but vindicate their position, and that their religion, which claimed to circumscribe and contain within it all and even more than Gentile civilization could bestow, would still live and thrive, though surrounded and penetrated in every part by railways. They maintained that the whistle of the locomotive and the click of the electric telegraph, instead of writing the epitaph of Mormonism, as many of the Gentiles were fondly hoping and predicting, were in reality inscribing in prophetic language one chapter of its future greatness and glory. Other Mormons, less enthusiastic, while contending that their faith was amply able to stand the test of contact with outside influences, conceded that if it could not, then the sooner it went by

the board the better. Thus all classes, or nearly all, were in favor of the railroad passing through Salt Lake City.

And through this city it undoubtedly would have passed if its builders could have seen their way clearly to that end; for Utah's capital was bound to have a railway, whether the U. P. and C. P. companies built it or not, and it was manifestly to the ultimate if not the immediate advantage of those companies to have their roads come this way. The author places no reliance in the story, once prevalent in these parts, that the railroad was built around the north side of the lake and missed the metropolis of Utah on purpose to spite Brigham Young and the Mormons. Unreasonable as anti-Mormon prejudice sometimes is, such a view as that is quite as much so. The men who built the Pacific Railway were not the small-souled bigots that such a conclusion would imply. Neither do we think that Brigham Young thought they were. It is perfectly plain that financial considerations alone influenced the choice of the northern in lieu of the southern route. Mistake it may have been, as many still maintain, but that it was deemed by the companies to be to their best advantage at the time, is not disputed.

But General Dodge continues: "Brigham Young called a conference of his church and refused to accept the decision; prohibited his people from contracting or working for the Union Pacific, and threw all his influence and efforts to the Central Pacific, which just at that time was of great moment, as there was a complete force of Mormon contractors and laborers in Salt Lake Valley competent to construct the line two hundred miles east or west of the lake, and the two companies had entered into active competition, each respectively to see how far east or west of the lake they could build, that city being the objective point and the key to the control of the commerce of that great basin.

"The Central Pacific Company entered upon the examination of the lines long after the Union Pacific had determined and filed its line, and we waited the decision of their engineers with some anxiety. We knew they could not obtain so good a line, but we

were in doubt whether, with the aid of the Mormon Church and the fact that the line south of the lake passed through Salt Lake City, the only commercial capital between the Missouri River and Sacramento, they might decide to take the long and undulating line;* and then would arise the question as to which (the one built south, the other built north, and it would fall to the government to decide) should receive the bonds and become the trans-continental line. However, the engineers of the Central Pacific, Clements and Ives, took as strong ground, or stronger than we, in favor of the north line, and located almost exactly upon the ground the Union Pacific had occupied a year before; and this brought the Mormon forces back to the Union Pacific, their first love."

Upon what information General Dodge based his statement that Brigham Young called a conference of his church, refused to accept the decision concerning the northern route, and prohibited his people from contracting or working for the Union Pacific Railroad, we are not aware. We only know that such a statement is at variance with the facts. After diligent research through the records and newspapers of that period, conversing with dozens of prominent citizens, Mormon and Gentile, who were in Utah at the time, and ransacking his own memory of local events in the "sixties," the author has been unable to find a single scrap of evidence that such a conference was ever held or such a prohibition ever attempted. It is a fact, however, that on the 10th of June, 1868, just as the railway was about entering Utah, a large and enthusiastic mass meeting of Mormons and Gentiles convened in the great Tabernacle at Salt Lake City and unanimously passed resolutions welcoming the advent of the iron horse, and expressing the earnest

* General Dodge, it appears, considered the southern line the longer. A glance at the map does not disclose much difference between them, for though the U. P., had the south line been followed, might have been a little longer, the C. P. would have been a little shorter, and thus matters would have been equalized. The south line crossed a desert, but it avoided the Promontory Mountains. General Dodge claims in his paper that the line adopted from the Missouri to the Pacific was the true commercial route across the country.

wish that the road might come this way. Our citizens were not then aware that any decision had been reached regarding the route around the lake. Brigham Young, therefore, could scarcely have rejected such a decision. And so far was he from prohibiting his people from contracting or working for the Union Pacific that only a few days before the mass meeting convened he accepted from the company's superintendent of construction, Samuel B. Reed, Esq., a contract to grade ninety miles of its road, from the head of Echo Canyon to Salt Lake Valley. Brigham Young at this time was a stockholder in the Union Pacific Company.

The movement for the mass meeting began on Monday evening, June 8th, when a number of prominent citizens held a preliminary meeting, of which J. M. Carter, a Gentile lawyer, was chairman, and A. W. White, another Gentile, was secretary. It was there resolved to call a mass meeting of the citizens, "that expression might be given to the popular feeling relative to the railroad coming past this city," and the following named gentlemen were appointed a committee to draft resolutions to be presented at that meeting: General D. H. Wells, Hon. George Q. Cannon, Messrs. J. R. Walker, T. B. H. Stenhouse, Warren Hussey and Henry W. Lawrence. Wednesday, June 10th, having been decided upon as the day for holding the mass meeting, and President Young having offered the use of the large Tabernacle for that purpose, at five o'clock in the afternoon fully three thousand men came together, representing all classes of the community. The most prominent citizens of the Territory were among the audience or upon the stand.

After music by Captain Croxall's band, Warren Hussey, the Gentile banker, moved that President Brigham Young be elected to preside over the meeting. The motion was carried unanimously. Colonel F. H. Head, Indian Superintendent, was unanimously chosen Vice President, and Charles E. Pomeroy and David W. Evans were appointed secretaries. Postmaster A. W. Street and Attorney Thomas Marshall, both non-Mormons, were added to the Committee on Resolutions, who then retired to frame their report. While they

were absent speeches were made by President Young and Colonel Head, from which we here present extracts :

PRESIDENT YOUNG:

If I could direct the route they [the railroad people] should take I should have it down through Echo and Weber canyons, and from there through the lower part of Salt Lake City, and then pass the south side of the lake to the Humboldt. Whether it is the province of this community to dictate in this affair will be better understood when the track is laid. We are willing to do our share of the work provided we get well paid for it. I suppose the committee will give their report and endeavor to shape their resolutions as near as possible with the wishes of this community. Whether I have hit the mark or not I do not know. I know what my wishes are, and I understand what would be for our benefit in building this railroad.

We have undertaken to do a certain section as far as the grading is concerned. Whether we shall have the privilege of hearing the whistle and snorting of the iron horse with every train of cars that passes from the west to the east, I do not know. Still I would like to hear the whistle and the puffing of the iron horse every evening and through the night, in the morning and through the day. If the Company which first arrive should deem it to their advantage to leave us out in the cold, we will not be so far off but we can have a branch line for the advantage of this city.

I believe that some have the idea that wherever the line goes there will be large cities built on its track; and at the junction of the two roads there must be a great deal of money expended for material and labor in erecting large machine shops. Whether they meet in this city, at the mouth of Weber, at the Humboldt Wells, on the desert south of the lake, or in the mountains north of the lake, has yet to be told. I am certain of one thing and that is that the Eastern Company is determined to meet the Western Company as far west as possible, and that the Western Company is determined to meet the Eastern Company as far east as possible, but whether the junction will be in our city or in the vicinity adjacent I do not know."

COLONEL HEAD:

There are certain classes of truths that are known as axioms—truths that are entirely so self-evident that upon them all argument and demonstration are lost. Suppose, for instance, that the most eloquent speaker we have here tonight should undertake to prove to you that a circle is round. I think it would be a very difficult thing to demonstrate. You all know it just as well as he does. Or if with his ingenuity he should go to work to convince you that the ladies of the country are altogether lovely, I think it would be an equally difficult task. That is something everyone understands, or if he does not he cannot be made to understand it. [Applause.] And no matter how ingenious the argument, I think love's labor in that case would be lost. Now it seems to me, gentlemen, that this question about the location of the railroad is very near, if not quite in the same class of truths to which I have just referred. It is something so exceedingly self-evident, that we would all of us like to live on the grand trunk line of the great continental highway rather than on any of its branches, that it is very difficult

to argue the question at all. It is something we all know without any argument. It is like an axiom, it cannot be proven.

For myself I have always felt a high degree of confidence that the road would come through Salt Lake City. Not that I had a better means of knowing this than any of the rest of you; but it always appeared to me that there were good reasons for the faith that is in me. Now we all know that the business of building railroads in the last few years has undergone a remarkable change. We can all of us remember when the question in building a new line of railroad was simply and solely the material statistics. "How much freight and how many passengers will go over that line in case it was built?" These statistics were all very good and necessary; but at the same time in the construction of a great work like the Pacific Railroad—the great continental highway, there is necessarily a very different order of talent brought into requisition. It is necessary to have the highest order of statesmanship and profoundest knowledge of political economy to solve such great and wonderful problems as that railroad will solve. It is no child's-play to revolutionize the commerce of the whole world, and that is something that railroad is bound to accomplish.

A long way to the westward are those mysterious lands which we have all read about in childhood, always shrouded in mystery and romance. Those lands to which Columbus tried in vain to find a pathway; those lands of which Marco Polo wrote his tales of wonder; China, Japan, Cathay, Tartary, India, and all those countries that lie afar off in the west. What a crowd of old associations and curious recollections come up in our minds at the mention of their names! Can it be possible that those lands are almost at our very doors? We have the evidence before us that in a very few months this miracle will have been accomplished. The city of San Francisco is the golden gate through which we can all pass into all the mysteries of Oriental life. Leadenhall Street, the old headquarters in London of the East India trade, will live again in San Francisco. New East India companies mightier than the old shall there be born. Bulls and bears from all quarters of the world will sport in San Francisco. Bulls in sandal wood and bears in aromatic gums. Bulls in silk and bears in tea, and lame ducks in the opium trade. Upon the exchange at San Francisco will soon be transacted this business for the world. The merchant princes of New York, Paris, London, Liverpool, Berlin and St. Petersburg will meet on the wharfs of San Francisco and there battle for the commerce of continents. Now to accomplish a work like this requires a high order of statesmanship. The directors and engineers of the Pacific Railroad have a marvelous work before them; not only in scaling the snow-capped mountains and in traveling wild and inhospitable deserts, but in the opening of a new civilization. And the marvelous energy and rapidity with which they have pushed the work forward up to this time, show that they are equal to the task to which they have set their hands. It is this confidence which I have in these directors—in their energy, intelligence and far-sightedness which makes me feel hopeful and almost certain that the railroad will pass through Salt Lake City. [Applause.]

There is not only the through carrying trade to be sought for between the extreme East and West for the whole world, but there is the development of the interior basin of our country, of Territories whose area is that of continents. These are to be built up

and developed; and this is a work of scarcely less importance and magnitude than the carrying trade of the nations. And it seems to me that these directors and managers of this great national enterprise can not but see this. They have seen and discussed it, and they will of course consider the best means of accomplishing that end. They do not care about building up temporary shingle cities like Cheyenne. They want great commercial towns, wealthy cities and commonwealths all along the line of their road to feed it and furnish it business. It is not the object of those directors to have their road run through poor, miserable, desert country with here and there a few impoverished inhabitants. They wish to pass through a wealthy country. They wish to develop to the utmost the resources of all this interior basin.

The interests of the Pacific Railroad and the interests of the people of Utah are identical. [Applause.] They will get their titling on all our dollars, and they want us to have just as many dollars as possible. [Applause.] For that reason it seems to me that it would be the height of folly for the directors and managers of this great enterprise to pass by what has been accomplished in this Territory for the past twenty years. [Applause.] Here is a commercial center already made. On every hand we find the evidences established of commerce and trade. Our merchants are known in New York and San Francisco. Here is a labor of twenty years, and a wonderful labor it is, and can it be possible these railroad men, among whom are some of the most enterprising in the nation, can it be possible that they will go somewhere else to build up a town and thus throw away the advantages offered by the labors of this people for twenty years? It seems to me that we are doing great injustice to the sagacity and business perceptions, quick intellects and shrewd tact of the men who have this matter in charge, to suppose that they will be guilty of anything of the sort. [Applause.] Most certainly we are, unless there is some great reason for them doing so, and that no one claims. If this country were a desert as when you came here, as described by President Young, it would then be about an even question whether the road should go north or south of the lake; each road has its advantages and disadvantages. The northern route, it is claimed, is a trifle shorter; but it passes along the foothills of the Goose Creek mountains, where there is a great deal of snow in the winter, besides various other disadvantages. On the route south of the lake there is a desert to contend with; and the advantages and disadvantages on the two routes are substantially equal. There is no particular difference from what I can learn in favor of one route over the other. But it seems to me that the fact of this city being the metropolis of the Territory and of the surrounding mining territories and the center of their business for the last ten or fifteen years, is of itself enough to decide the question." [Applause.]

The band played "Hail Columbia," and the Committee on Resolutions then reported as follows:

Resolved, That Utah welcomes to her borders the coming railroad, and hails with pleasure closer contact and more intimate relations with her friends east and west.

Resolved, That every advancement in civilization and enterprise will always and at all times receive a helping and friendly hand from the people of Utah.

Resolved, That it is the wish of this meeting that the railroad shall come to this city and pass by the south side of the lake, and for that purpose proper and suitable grounds for depot, machine shops and improvements can be obtained within this city.

Resolved, That one hundred thousand citizens of this nation demand that this great national work shall be performed for national good and for the people's benefit and not for private profit or personal speculation.

Addresses were next delivered by Thomas Marshall, Esq., Apostles John Taylor and George A. Smith, President Young and Hon. George Q. Cannon. Extracts from all are here given.

THOMAS MARSHALL:

The highway of commerce is now open for Eastern Asia, and no longer will Great Britain absorb in her own hands the commerce of the Indies. Young America speaks today and her voice declares that the old time is passing away, and marks that coming age and generation which is now engraved on the book of time that shall never be eradicated or erased. [Applause.] We have seen within the last few years, first the pony express spanning the desert; next the stage coach, and now the iron horse. We, gentlemen, citizens of this grand Republic, residents and people of Utah, speak today, and our voice is that we have a right to tell our servants that we want here amongst us this great work for which we have prayed and for which we have labored. [Applause.] That, gentlemen, is the object of this meeting; that is what we are here for. It is to speak the sentiments of the people, to say what Utah wants, what Utah demands of Washington. [Applause.] We have long filled and continued to fill a Territorial position; but, sir, that time is rapidly passing away and soon our mountains will be populated, our mines worked, and speedily the ports of the nations of God's globe will be opened up to us.

The impression seems to be abroad that Utah and this city do not wish the railroad here. From what that impression arose, God alone knows, not I. I have seen in my intercourse in this city that every man, woman and child wanted it here; wanted to speed their intercourse with the people of the United States of whom we form a part. [Applause.] They want no longer to pay great freights, and the people here know that the coming of the railroad will do away with this. Gentlemen, we shall no longer see the commercial pursuits of this city monopolized by a few large capitalists: but soon men of honesty and industry, with small means will do a fair proportion of the commerce of Utah.

In conclusion I will say that I heartily endorse every word of the resolutions you have passed. Every word of them is but an echo of my own sentiments, as I know and feel that it is of this people. [Applause.]

JOHN TAYLOR:

The railroad is now the great topic of conversation, and occupies the attention of all classes of men. The engineer in its construction, the contractor in his arrangements, the mechanic and laborer in giving the hard knocks, carrying out their plans, the farmer in

providing the grain, beef, butter and eggs, and the merchant in catering to the wants of all. All seem interested.

* * * * *

I remember very well the time when there were no railroads, or steamboats, or telegraphs, or gaslight. Very soon after its completion I rode on the first railroad that was made in the world—the one between Liverpool and Manchester, England.* They now form a net-work over what is termed the civilized nations of the earth, and penetrate the remotest parts; they have passed through forests, swamps and morasses, over high mountains and low valleys, skirted bays, outlets and promontories; their whistle has shrieked in the recesses of Egyptian darkness, and has awakened the sleeping echoes among the mummies of the catacombs; and while in Europe and America they have been fed with coal and wood, or oil, the dead of three thousand years have been rudely awakened from their mausoleums by the rustling, roaring, shrieking iron-horse, and the Pharaohs—the Ptolomies of three thousand years ago, and of the then mightiest nation whose pyramidal tombs have been the wonder of the world—have been brought into requisition to feed the ever craving maw of the locomotive, and their dried-up muscles, flesh and bones have been fried and frizzled and burned to propel the rushing car.

We have here no Pharaohs, nor Ptolomies, nor Nimrods, nor Nebuchadnezzars,—nor Antonies,—nor Cæsars,—nor Hannibals,—no illustrious dead; but we have the living, wide-awake Yankee, the Dodges, the Reeds, the Stanfords, the Grays, the Youngs, and other celebrities. We have also the Englishman, the Frenchman, the Saxon, the Dane, the Norwegian, who are today with bare arm, strong muscles and busy brain with living energy, overturning mountains, shattering the granite rock, bridging the mountain torrents, piercing the hitherto supposed impenetrable canyons, filling up the valleys, leveling the hills and preparing a pathway for the iron-horse.

It has been thought and charged by some that we are averse to improvements, and that we disliked the approach of the railroad. Never was a greater mistake. We have been cradled in the cities of the new and old worlds, where we have built locomotives, steamboats, gas works, and telegraph lines; nor have we forgotten our former predilections, sympathies and habits. We have always been the advocates of improvement, of the arts, science, literature, and general progress; and whilst we abjure the evils, the follies, the crimes, and many of the lamentable adjuncts of civilization, we are always first and foremost in everything that tends to ennoble and exalt mankind. Who penetrated these deserts, opened these fields, planted these orchards, made these roads, built these cities, and made this wilderness and desert “blossom as the rose?” That is no mystery. Who was the first to hail and help build the first telegraph line? There sits the gentleman, [President Young]. Who the first to engage in leveling these almost inaccessible canyons? Brigham Young and his coadjutors. We believe not alone in theories, but in facts, in what the French properly call actualities. We like not to meet with babblers and theorists and visionaries, but with matter-of-fact gentlemen, such as are around us here today, who, like Washington, Franklin and Jefferson, are proving by their

* A slight error. The Darlington and Stockton Railway preceded a short time the line between Liverpool and Manchester.

acts their devotion to science, progress and improvement. We meet in friendly conclave with distinguished gentlemen connected with the eastern and western divisions of the railroad, who have been here to exchange friendly greetings with each other and with Brigham Young, and to plan for the greatest good of this great national enterprise. All men of deeds, and whose acts will live when thousands less practical will be forgotten. They are all erecting for themselves a monument more enduring than brass or marble. We hail these gentlemen as brothers in art, science, progress and civilization, and whilst their hearts throb with a desire for the achievement of a great national highway, they will meet here a hearty sympathy and cordial co-operation; hearts as true, sympathies as strong and energy as firm and enduring as that which inspires their bosoms. We meet on the level and part on the square.

Man by steam and electricity traverses the earth, seas and oceans, let him conquer the air and then like a God he will have subjected all the elements to his control; and then if inspired by the great Eloheim, and governed by the principles of truth and virtue, he will be the true representative of God upon the earth.

We hail, then, with pleasure this greatest work of the greatest nation of the earth. It is a work worthy of America in its inception, its progress, and we trust in its completion. We will bare our arms and nerve our muscles to aid in the completion of this great cord of brotherhood which is already reaching our borders.

I have heard of a few men of small minds who cavil at the terms on which it is to be built and the price offered for labor. This is for want of better information. I am credibly informed that President Young in his contract has been as liberally dealt with as others. Is our labor worth more than other men's? Shall it be said of us that we have not the same ability, energy and enterprise as other men? No, a thousand times no! We have no time to listen to croakers. The railroad must be done, the Sandwich Islands, Australia, Japan and China want it; Great Britain and Europe want it; America wants it; and we want it; and with a hearty co-operation we say to those gentlemen who have come here as the representatives of the railroad, we bid them a hearty welcome to our mountain home. We sympathize with them in their feelings, desires and labors, and we will be the co-laborers with them in this herculean enterprise, and with a long pull, a strong pull, and a pull altogether, we will accomplish the object designed, and not stop till the restless iron horse shall pass in triumph from the Atlantic to the Pacific shore.

GEORGE A. SMITH:

I am very much gratified with the proceedings of this meeting and the resolutions which have been adopted. I certainly coincide with the honorable Vice-President in his view of the necessity and certainty of the railroad passing by our city. We started from Nauvoo in February, 1846, to make a road to the Rocky Mountains. A portion of our work was to hunt a track for the railroad. We located a road to Council Bluffs, bridging the streams, and I believe it has been pretty nearly followed by the railroad. In April, 1847, President Young and one hundred and forty-three pioneers left Council Bluffs, and located and made the road to the site of this city. A portion of our labor was to seek out the way for a railroad across the continent, and every place we found that seemed difficult for laying the rails we searched out a way for the road to go around or through it.

We had been here only a short time until we formed the provisional government of the State of Deseret, and among the subjects of legislation were measures to promote and establish a railroad across the continent. In a little while we were organized into a Territory and during the first session of the Legislature a memorial to Congress was adopted and approved, March 3rd, 1852, upon this subject, the substance of which has been reiterated by the gentlemen who have spoken today. Speaking of this railroad being necessary to develop the mineral and other resources of the continent and to bring the trade of China and the East Indies across the continent, we considered it then and so represented it in our memorials. And we knew that it was a work of necessity involving only a question of time, and it looked to us as if the work would have been accomplished long ere this.

Two years afterwards the matter was again under consideration, and a memorial to Congress was adopted in which the route the railroad should take was pointed out and singular it is that the route indicated in that memorial has been followed to a very great extent in the location of the road thus far. All these matters we have regarded with a great deal of interest, and yet, when I was in Washington, in 1856, I was told by a reverend gentleman that we were "opposed to a railroad." I told the man that he must be very ignorant of the wishes and views of the people here, or else he gave us credit for being very fond of ox-teams and "horn telegraphs." In a memorial to Congress from the Legislative Assembly of this Territory, adopted 1858-9, it is said "a great band of union throughout the family of man is a common interest; a central road would unite that interest with a chain of iron, and would effectually hold together our Federal Union with an imperishable identity of mutual interest, thereby consolidating our relations with foreign powers in time of peace and steadily enforcing our rights in time of war." These were among the sentiments that were advanced in the first three memorials. I am very much pleased to see and realize that the work is now in progress and that our friends are all united in its accomplishment.

PRESIDENT YOUNG:

As there are a great many persons present who know nothing concerning our first arrival in these valleys, I want to say in reference to Brother George A. Smith's remarks concerning the railroad, that I do not suppose we traveled one day from the Missouri River here, but what we looked for a track where the rails could be laid with success, for a railroad through this Territory to go to the Pacific Ocean. This was long before the gold was found, when this Territory belonged to Mexico. We never went through the canyons or worked our way over the dividing ridges without asking where the rails could be laid; and I really did think that the railway would have been here long before this; and I do think it would if there had not been some little eruption.

* * * * *

When we came here over the hills and plains in 1847 we made our calculations for a railroad across the country, and were satisfied that merchants in those eastern cities, or from Europe, instead of doubling Cape Horn for the west, would take the cars, and on arriving at San Francisco would take steamer and run to China or Japan and make their purchases, and with their goods could be back again in London and other European

cities in eighty or eighty-five days. All these calculations we made on our way here, and if they had only favored us by letting us have a State government, as weak as we are we would have built railroads ourselves. Who feels this telegraph wire we put up here, almost 500 miles? Who would feel themselves any poorer when the necessity of the case required it for us to build a railroad right through this tier of valleys? None. No man is poorer by disposing of his labor to advantage, but he is always better off than when idling away his time. That makes him poor and mischievous, but when his mind is active in benefitting himself and his fellow creatures, he grows better all the time. True happiness consists in doing all the good we can, and the more good we do the better we feel.

I want this railroad to come through this city and to pass on the south shore of the lake. We want the benefits of this railroad for our emigrants, so that after they land in New York they may get on board the cars and never leave them again until they reach this city. And this they can do when the Missouri river is bridged, which will soon be done temporarily, if not permanently. * * * When this work is done if the tariff is not too high, we shall see the people going east to see their friends, and they will come and see us, and when we are better known to the world, I trust we shall be better liked.

GEORGE Q. CANNON:

Through being absent from the city yesterday, I did not know until late this afternoon that my name was down as one of the speakers, and therefore I have not come prepared to make any set speech on the subject; but I heartily endorse the movement. I believe that we have arrived at that point in our history when the building of the railroad is a necessity. We need it through this city, and if the company do not construct it, as it has been said they would not, they will commit a great mistake, as their future operations will prove to them. Salt Lake City is fast rising in importance, and it has a great future in store. Thousands of people will cross the mountains merely for the sake of seeing and passing through it, who probably would not think of doing so were the railroad to be carried north. It is said that by making a detour by way of this city the distance is increased. The advantages which would naturally accrue to the railroad by passing through our city would more than counterbalance any disadvantage arising through the increased distance. But it is very doubtful whether the distance is any greater by this city. We have an open country westward upon which the track can be made with greater facility than by the northern route. There is nothing on the northern route particularly to call the railroad in that direction. If the trade of Montana and Idaho is desirable, this railroad will not answer the purpose because the detour that is contemplated to the north is not sufficient for them. To my mind there is every reason why it should come by this city, but no tangible reason why it should go in any other direction.

The point has been urged occasionally by the public journals, and we have heard it alluded to this afternoon, that the citizens of Utah are secretly averse to the construction of this railroad; that if we had it in our power we would throw insuperable obstacles in the way of the company. This we hear from various sources. I was much pleased this afternoon in listening to the remarks which have been made on this point, and the unequivocal testimony which has been borne in contradiction of this statement. Those

who are most familiar with the people know full well that whatever our peculiarities may be, we are not opposed to progress. We may view progress from a different standpoint to many others; but upon matters of great national importance, such as the construction of this railroad, there is a union of feeling on the part of the inhabitants of this Territory with those who inhabit other portions of the Republic.

When we came here we sought isolation. We were utterly sick of everything we had been brought in contact with. We had suffered and were glad of an isolated retreat such as these mountains afforded, where we could dwell in peace and quietness for a season. We occupy a different position to that which we have ever occupied before. We desire to be more known. We have no desire to secrete ourselves, or to hide ourselves from public gaze and from contact with outside influences. There was a time when in our weak condition we might have feared the results, but that day is past and I trust forever. We court contact today, if it be of the right kind. We do not court or invite aggression; healthy contact, legitimate acquaintance we desire. We want to be better known, and when we are better known these absurd prejudices and misapprehensions which prevail now through the public mind respecting the "Mormons" and the people of Utah will be dissipated.

I am for the railroad. We are dependent upon ox and mule teams, and if there were no more cogent reason than this it would be enough to make us heartily welcome its completion. But the reasons I have touched upon briefly are, to my mind, sufficient. I am glad it is coming, and I hope to see the day before long—before the election of 1872—when we, the citizens of Utah, will have the opportunity of casting our vote in favor of the Presidential candidate. Four years with the railroad will work wonders and bring about many changes in Utah. God speed it!

At the close of the addresses three rousing cheers were given from as many thousand throats, for Utah and the Pacific Railroad, and the meeting then adjourned.

It is very evident from the tenor of the remarks made on this occasion that the citizens of Utah were not then aware that any definite decision had been reached by the railroad authorities or by the Government regarding the route across Salt Lake Valley. And yet, as stated, President Young had accepted, only a few days before, a contract from the Union Pacific Company to do its grading through Echo and Weber canyons. The mass meeting had been called, not to protest against any decision made in favor of the northern route nor to persuade the railroad people to reconsider any purpose previously formed. It was to invite and influence them to decide in favor of the southern route. Apropos of this matter, in the *Deseret Evening News* of January 6th, 1867, appears the following item:

PREMATURE.

On a "Map of the Union Pacific Railway and Stations from Omaha to San Francisco," published in Frank Leslie's *Illustrated Newspaper*, we notice a station marked between Brigham City and Great Salt Lake. This is somewhat premature, the exact route of the line not yet being determined upon. The map has the road marked down Weber Canyon, and then north around the northern end of the lake, though Ogden is not mentioned as a station. Better wait a little longer and see how the engineers decide.

This item and the proceedings of the mass meeting go to show that whatever the Leslies knew of the plans of the Union Pacific Company respecting the route in question in the beginning of 1867, the people of Utah were not informed upon the subject, neither in January of that year, nor in June of the year following.

In the press of Salt Lake City, about this time, appeared the following announcement:

NOTICE.

Messrs. Joseph A. Young, Brigham Young, Jr., and John W. Young, agents for President Brigham Young, left this city on the 8th inst., for the head of Echo Canyon, to let contracts for grading on the Union Pacific Railroad, and will begin the lettings on Thursday, the 11th inst. Parties wishing contracts on that road can now start their men, provisions, tools, etc., as fast as they can get ready. As soon as the line is all located, about 10,000 men will be wanted.

"On to Echo!" was now the prevailing cry, and forthwith teams and wagons loaded with workmen, tools, provisions and camping outfits went rolling over the mountains from the populous valleys west of the Wasatch toward that spot historic; not as, ten years and a few months earlier, many of these same men had gone thither to resist the advance of an invading army, but to welcome and help into and across the smiling vales of their rock-rimmed, desert-girt paradise the onward march of civilization toward the Occident.*

* Said the *Deseret News*, June 17th, 1868: "The acceptance of a contract by President Young for the grading of a road from the head of Echo Canyon to this valley, and the heartiness with which the people manifest a desire to take hold of the job, takes away the thunder of those writers whose capital stock is the wrong-doings and sinfulness of the Mormons. Any opposition on the part of our citizens to the railroad, or even reluctance to aid in its construction, would have furnished needy scribblers matter for interminable diatribes respecting our disloyalty and barbaric tendencies. Such action or disposition on our

The principal sub-contractors under President Young—whose contract amounted to about two and a quarter millions of dollars—were Bishop John Sharp and Hon. Joseph A. Young, the President's eldest son. They employed between five and six hundred men, and the amount of their contract was about a million dollars. To them fell the heavy stone work of the bridge abutments and the cutting of the tunnels in Weber Canyon. Afterwards, in the "race" between the Union Pacific and Central Pacific constructing companies, Sharp and Young took another contract amounting to a hundred thousand dollars, upon which they employed from four to five hundred men. Among other sub-contractors under President Young were Apostle John Taylor; Feramorz Little; John W. Young and George W. Thatcher; Brigham Young Jr.; David P. Kimball, J. Q. Knowlton, Nelson A. Empey, H. J. Faust and John Houtz; William H. Hickenlooper; Heber P. Kimball and Company; George Crismon and E. M. Weiler; Bernard Snow; Samuel D. White and A. M. Musser; Warren G. Child, Edward Samuels, Crandall Brothers, John W. Hess, Anson Call, John Stoker, William R. Smith; Samuel W. Richards and Isaac Groo, L. P. North and Company, Merrill and Hendricks, Ezekiel and John G. Holman, James Chipman and — Chisholm. A few of these were sub-contractors under Sharp and Young, but most of them took contracts directly from the President. His chief clerk, who attended to the paying of the contractors and had general charge of his railroad business, was Thomas W. Ellerbeck. President Young is said to have realized from his contract about eight hundred thousand dollars.

East of President Young's another large contract was taken by Joseph F. Nounnan and Company. Mr. Nounnan was of the firm of Nounnan, Orr and Co., Gentile bankers of Salt Lake City. From them David P. and Heber P. Kimball, W. R. Judd and others

part would have been a lucky wind-fall for them. But we would have to deny all our past wishes and actions were we to do so. From the earliest days of our settlement in these valleys the construction of a railroad across the continent has been desired and looked forward to with pleasure by the leading minds of the community."



Engraved by H. & S. S. New York

F. D. Richards

took sub-contracts. Their camps were on Sulphur Creek, Yellow Creek and Bear River. Most of President Kimball's sons—and they were a small host—after the death of their father went out to work upon the railroad, and were engaged as grade-builders upon the contracts of their elder brothers, David and Heber. The author, then a lad of thirteen years, was one of the boys of "Uncle David's" camp, who helped build the road-bed of the Union Pacific Railway. Too small and puny to "drive team" and "tip scraper" at the start, he was made water-boy; a bucket and cup being the insignia of his office, the duties of which consisted of a regular tramping up and down the line of the "dump," supplying the workmen with drinking water.* Two months of discipline as a cup-bearer, and the juvenile Ganymede was transformed into a mule-driver—the acme of his ambition in those days—he having become wise enough to harness a team, and just muscular enough to tip a scraper—except when the scraper-chain chanced to get under one or both corners of it—and for a good month longer reveled in the luxury of "roughing it" at Kimball's camp on Bear River. Roughing it indeed, for we lived like bears, in caves and dug-outs—during the summer in tents and wagons—and grew as strong and almost as fierce as panthers.

On the Central Pacific, the only contract taken by Mormons was that of Benson, Farr and West, who grappled with the great undertaking of building the western road from the vicinity of Humboldt Wells to Ogden; the C. P. engineers, having, as stated, run their line as far east as the mouth of Weber Canyon. The contractors named were Apostle Ezra T. Benson, of Logan, Cache County, and President Lorin Farr and Bishop Chauncey W. West, of Ogden. Originally the contract was taken by President Farr alone, but on the advice of President Young he associated with himself the two others. Under this firm were the following named sub-contractors: Andrew Anderson,

*The late Sidney Dillon, who lived to become President of the Union Pacific Company, began at seven or eight years of age his railroad career in like manner. The author does not anticipate, in his own case, a similar outcome.

R. Ballantyne, Burrop and Company, Thomas Bingham, H. Bullen, William Budge, E. T. Benson, John E. Bitton, B. Cazier and Company, Eugene Campbell, Collett and Bankhead, Collets and Company, M. A. Carter, Dispennet Aldrich and Company, Joseph Edge, I. H. Freeman, John Farrill, Fitzgerald and Aldrich, A. F. Farr, Fife and Mitchell, Lorin Farr, P. S. Griffeth, F. B. Gilbert, William Gillen, F. A. Hammond, L. H. Hatch, M. D. Hammond, William Hyde, John Hendry, Thomas Jenkins, David James, William Kidman, H. Kimball and Company, Thomas Muir, Matthew Hopkins, Robert McCloy, Harvey Murdock, John Martin, Nels McKeelson, William Maughan, Merrill and Hendricks, Marriott and Parry, A. McFarland, I. Shelley, T. Geddes, John Henry Smith, Shurtliff and Company, A. Wayner, James Shupe, Shultz Penfield, Taylor and Company, Woodward and Collett, C. B. Hancock, C. W. West and others.

Benson, Farr and West built the grade of the Central Pacific Railroad for a distance of two hundred miles. The portion constructed by them from Promontory Summit to Ogden—fifty-three miles—was never used by the company owing to the fact that the Union Pacific main line reached Ogden first and pushed on westward to Promontory, paralleling the grade of the Central Pacific between those points. Subsequently, when Ogden was made by act of Congress the common terminus of the roads, the Central purchased of the Union Pacific its section of track between Promontory and the Weber County capital, and abandoned the superfluous grade built by itself. That grade, however, was accepted by the C. P. Company, and for their work, though some delay ensued, the contractors, Benson, Farr and West, received their pay. In fact they received more than the contract price, for so anxious had been the company to lengthen its line that President Stanford had agreed with Bishop West, on condition that the work be pushed forward with all possible speed, to pay him whatever it might cost. Thus it was that in the final settlement President Farr—his associates both being dead—received from the Central Pacific Company one hundred thousand dollars in excess of the contract figure. This amount, however, all

went to pay sub-contractors, and President Farr emerged from the undertaking with little or nothing for his labor and pains.

Passing by other minutiae, we come to the arrival of the iron horse at Ogden. It was about half past eleven o'clock on the morning of Monday, March 8th, 1869, that the track-layers on the Union Pacific Railroad came within sight of the "Junction City," whose excited inhabitants, from the top of every high bluff and commanding elevation in the vicinity "feasted their eyes and ears with the sight and sound of the long expected and anxiously looked for fiery steed." On they came rapidly, the track-layers in front putting down the rails, and the locomotives, as fast as the iron path was prepared for them, steaming up behind. At half past 2 p. m. they reached Ogden, where, amid the raising of flags, the music of brass bands, the shouts of the people and the thunder of artillery, the advent of the railway was celebrated with the wildest enthusiasm. At 4 o'clock a stand was erected alongside the track, and a procession consisting of the Mayor, members of the municipal council and the various schools of the city headed by their respective teachers, formed under the direction of a committee of arrangements previously appointed, namely: Colonel W. N. Fife, Captain Joseph Parry and Francis A. Brown, Esq. Among the mottoes on the numerous banners borne aloft in the procession, as it wended its way through the crowd-lined streets until finally it halted and gathered about the stand, was one reading: "Hail to the Highway of Nations! Utah bids you Welcome!" On the stand were seated such personages as Hon. Franklin D. Richards, Mayor Lorin Farr, Hon. Aaron F. Farr, Colonels Daniel Gamble, Walter Thompson and W. N. Fife, Major Seth M. Blair, Captains Joseph Parry and William Clayton, Major Pike, Messrs. Aurelius Miner, F. S. Richards, Joseph Hall, Gilbert Belnap, James McGaw, F. A. Brown, Esq., Colonel J. C. Little, D. B. Warren, Esq., and others.

The assemblage was called to order by Mayor Farr, who announced an address from Hon. F. D. Richards. Judge Richards then came forward and delivered an impressive speech, during

which, after bidding the railway conductors and operators a hearty welcome to Ogden, he said: "A prejudice has existed in the minds of some in relation to our feelings on this matter. It has been said that we did not wish to have a railway pass through our country. Such prejudice has been proved to be unfounded. And our labors along the line, especially through Echo and Weber Canyons are a standing and irrefutable testimony of our great desire and anxiety to see the completion of this, the greatest undertaking ever designed by human skill and wisdom. It spans the continent, and uniting the Atlantic to the Pacific, opens up to us the commerce of the nations; it facilitates the transit and trade between India, China, America and other parts of the world, and enables us with speed and comfort to visit our friends throughout the Union. It will also enable the world's great men—men of wisdom, science and intellect, to visit these our mountain homes, and form a true estimate of our character and position. Then I say, Hail to the great highway of nations! Utah bids you welcome! And may God speed the great work until it is completed, and may good and kind feelings animate the minds of the contractors and builders of both lines, and stimulate them to increased exertion until the last tie and rail are laid."

Music by Captain Pugh's band, and artillery salutes from Captain Wadsworth's battery followed, after which three cheers were given for Mr. Warren, Superintendent of the Utah division of the Union Pacific, and three more for Captain Clayton, the track-layer. Both declined invitations to speak, being wearied from the day's exertions, but they privately expressed their hearty sympathy with all that was being said and done by others. Colonel Little, Major Blair, Judge Miner and Mayor Farr in turn addressed the people, after which, amid the continued firing of guns, the music of the band and the cheering of the people, to which the shrill voices of three locomotives lent their aid to swell the general din of rejoicing, the celebration closed and the citizens dispersed to their homes.

The great event of the completion of the Pacific Railway was



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Joseph Parry

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reserved for Monday, May 10th, 1869, two months and two days after the arrival of the iron horse at Ogden. The place—Promontory Summit, Utah, on the northern shore of the Great Salt Lake. There, at a point fifty-three miles north-west of Ogden, 690 miles east of Sacramento, and 1,085.8 miles west of Omaha, the two great railroads, the Union Pacific and the Central Pacific met, the last rail was laid, the last spike driven and both tracks were welded into one.

The ceremonies attending the completion of the great highway took place about noon. The junction of the two lines had practically been effected a short time before, but two lengths of rails were left for this day's proceedings. At 8 a. m. spectators began to arrive. These were mostly workmen on the lines and other denizens of the railway camps. Three-quarters of an hour later the whistle of a locomotive was heard, and the first train to arrive came speeding over the Central Pacific, bringing many passengers. Then came two trains from the East over the Union Pacific, whose elegant coaches were likewise heavily laden. At 11:15 a. m., Hon. Leland Stanford, Governor of California and President of the Central Pacific Railroad Company, arrived by special train from the West. His locomotive—"Jupiter"—was gaily decorated with flags and streamers. Dr. Durant and other Union Pacific notables were already on the ground. The crowd numbered about eleven hundred, representing by nativity nearly all the civilized nations of the earth. A number of ladies and a few children were among the spectators.

Representing the Central Pacific Company were the following named officials and guests: Hon. Leland Stanford, president; Charles Marsh, director; Mr. Corning, general superintendent; J. H. Strowbridge, superintendent of construction; Messrs. J. T. Haines, F. A. Trytle and William Sherman, commissioners of inspection; E. B. Ryan, Esq., Governor Stanford's private secretary; Governor Safford, of Arizona; Hon. Thomas Fitch, M. C., of Nevada; Judge Sanderson, of the Supreme Court of California; Edgar Mills, of the

firm of D. O. Mills and Co., bankers, Sacramento; General Houghton, E. H. Peacock and Dr. Harkness, of Sacramento; Dr. T. D. B. Stillman, of San Francisco; S. T. Game, of Virginia City, Nevada; Mr. Phillips, banker, and wife, of Nevada, California; Alfred Hart, of Sacramento, the company's photographer, and E. D. Dennison, in charge of the excursion train.

The names of the officials and guests of the Union Pacific Company were as follows: T. C. Durant, president; Sidney Dillon, vice-president; John Duff, director; General G. M. Dodge, general superintendent; H. M. Hoxie, assistant superintendent; Colonel Seymour, consulting engineer; S. B. Reed, superintendent and engineer of construction; D. B. Warren, superintendent of the Utah Division; Colonel Hopper, superintendent of the Laramie division; J. W. Davis, of the firm of Davis and Associates; L. H. Eicholtz, engineer of bridges; General Ledlie, bridge-builder; J. S. and D. T. Casement, track-laying contractors; Major A. D. Russell, company photographer; H. W. Cossley, steward; Governor John A. Campbell, of Wyoming;* Major Bent, Messrs. Edward Creighton, Alexander Majors, G. C. Yates, J. J. Megeath, J. M. Ransom and C. T. Miller. Representatives of Salt Lake City: Hon. William Jennings, vice-president of the Utah Central Railroad Company; Colonel F. H. Head, Feramorz Little, Esq., General R. T. Burton, Bishop John Sharp, C. R. Savage, photographer, and many others, including ladies. President Brigham Young had been cordially invited to be present, but was unable to attend.

Ogden City was represented by Hon. F. D. Richards, Mayor Farr and Bishop C. W. West; Cache Valley by Hon. Ezra T. Benson. Among others present were General J. A. Williamson, of Corinne; W. B. Hibbard, Esq., Superintendent of the Western Union Telegraph

* The Territory of Wyoming was created July 25th, 1868. Its boundaries were the 27th and 34th meridians of longitude, and the 41st and 45th parallels of north latitude. The western boundary took in the Green River valley, including the north-east corner of Utah. John A. Campbell, of Cleveland, Ohio, the first Governor of Wyoming, was appointed to that office in April, 1869.

Company; Colonel Henry, of Wyoming; ex-Mayor George B. Senter, of Cleveland, Ohio; Henry Nottingham, late general superintendent of the Cleveland and Lake Shore Railroad; Charles C. Jennings, of Painesville, Ohio; R. Hall, of the firm of Hall and Casement; W. H. House, of Pittsburg, Pennsylvania; Colonel Lightner, E. B. Jones and Samuel Beatty, mail agents; J. A. Green, of the firm of Green and Hill, and Guy Barton, of the firm of Woolworth and Barton.

The press of the country was represented by the following named knights of the quill: Frederick McCrellish, editor and proprietor of the *Alta California*; T. O. Leary, of the *Sacramento Bee*; Mr. Howard, of the *Omaha Herald*; B. W. Miller, of the *New York City Press*; G. F. Parsons, of the *San Francisco Times*; A. D. Bell, of the *San Francisco Bulletin*; T. Clapp, of the *Springfield (Mass.) Republican*; Reverend Dr. John Todd, of the *Boston Congregationalist* and the *New York Evangelist*; Dr. Adonis, of the *San Francisco Herald*; H. W. Atwell, of the *San Francisco Chronicle*; E. L. Sloan, of the *Deseret News*, Salt Lake City; T. B. H. Stenhouse, editor and proprietor of the *Telegraph*, just removed from Salt Lake to Ogden; and others. Colonel Cogswell and the Twenty-first regiment, U. S. Infantry, were also present, and the delightful music of their fine brass band, wafted far and wide on the mountain breezes, gave added zest and enjoyment to the occasion.

The Chinese laborers on the western line having, with picks and shovels, leveled the road-bed preparatory to putting in place the last ties and rails, this final work was now performed,* all but the laying of one rail, after which the U. P. engine No. 119—each company had four locomotives on the scene—and the C. P. engine, "Jupiter," moved up to within thirty feet of each other, and all was

* "A curious incident connected with the laying of the last rails has been little noticed hitherto. Two lengths of rails, fifty-six feet, had been omitted. The Union Pacific people brought up their pair of rails, and the work of placing them was done by Europeans. The Central Pacific people then laid their pair of rails, the labor being performed by Mongolians. The foremen in both cases were Americans. Here, near the center of the great American Continent were representatives of Asia, Europe and America—America directing and controlling."—JOSEPH NICHOLS.

ready for the closing scene of this memorable act in the great drama of modern events.

The people were now requested to stand back, in order that all might see. Edgar Mills, Esq., of Sacramento, then read the program of ceremonies, which was carried out in the following order:

Silence being enjoined, and heads reverently uncovered, Reverend Dr. Todd, of Massachusetts, offered the dedicatory prayer:

“Our Father and God, and our fathers’ God, God of creation and God of providence. Thou hast created the heavens and the earth, the valleys and the hills; Thou art also the God of all mercies and blessings. We rejoice that thou hast created the human mind with its powers of invention, its capacity of expansion, and its guerdon of success. We have assembled here this day, upon the height of the continent, from varied sections of our country to do homage to Thy wonderful name, in that Thou hast brought this mighty enterprise, combining the commerce of the east with the gold of the west to so glorious a completion. And now we ask Thee that this great work, so auspiciously begun and so magnificently completed, may remain a monument of our faith and of our good works. We here consecrate this great highway for the good of Thy people. O God, we implore Thy blessings upon it, and upon those who may direct its operations. O Father, God of our fathers, we desire to acknowledge Thy handiwork in this great work, and ask thy blessing upon us here assembled, upon the rulers of our government and upon Thy people everywhere; that peace may flow unto them as a gentle stream, and that this mighty enterprise may be unto us as the Atlantic of Thy strength and the Pacific of Thy love; through Jesus, the Redeemer. Amen.”

Then came the presentation of spikes. Dr. Harkness, of Sacramento, presented Governor Stanford with a spike of pure gold, and said:

“Gentlemen of the Pacific Railroad, the last rail needed to complete the greatest railroad enterprise of the world is about to be laid; the last spike needed to unite the Atlantic and Pacific by a



Engraved by E. C. Williams & Bro. N.Y.

William W. Fife.

new line of trade and commerce, is about to be driven to its place. To perform these acts the east and the west have come together. Never since history commenced her record of human events has man been called upon to meet the completion of a work so magnificent in contemplation, and so marvelous in execution. California, within whose borders and by whose citizens the Pacific Railroad was inaugurated, desires to express her appreciation of the vast importance to her and her sister States of the great enterprise which by your joint action is about to be consummated; from her mines of gold she has forged a spike, from her laurel woods she has hewn a tie, and by the hands of her citizens she offers them to become a part of the great highway which is about to unite her in closer fellowship with her sisters of the Atlantic. From her bosom was taken the first soil, let hers be the last tie and the last spike, and with them accept the hopes and wishes of her people that the success of your enterprise may not stop short of its brightest promise."

The gold spike thus presented was about seven inches long and a little thicker than the ordinary railroad spike. It was made from twenty-three twenty-dollar gold pieces, and was worth \$460.00. On the head of it were engraved the words: "The last spike," and the sides bore this inscription: "The Pacific Railway, first ground broke January 8th, 1863; and completed May 10th, 1869. May God continue the unity of our country as this railroad unites the two great oceans of the world. Presented by David Herves, San Francisco."

A silver spike similar in size was presented to Dr. Durant by Hon. F. A. Fryth,* of Nevada, who uttered the following sentiment: "To the iron of the east and the gold of the west Nevada adds her link of silver to span the continent and weld the oceans."

Governor Safford, of Arizona, offered a spike composed of iron, silver and gold, and said: "Ribbed with iron, clad in silver, and

* Mr. Nichols says F. A. Tuttle.

crowned with gold, Arizona presents her offering to the enterprise that has banded the continent and directed the pathway to commerce."

Governor Stanford in behalf of the Central Pacific Railroad, made the following response: "Gentlemen, the Pacific Railroad Companies accept with pride and satisfaction these golden and silver tokens of your appreciation of the importance of our enterprise to the material interests of the whole country, east and west, north and south. These gifts shall receive a fitting place in the superstructure of our road, and before laying the tie and driving the spikes in completion of the Pacific Railway allow me to express the hope that the great importance which you are pleased to attach to our undertaking may be in all respects fully realized. This line of rails, connecting the Atlantic and Pacific and affording to commerce a new transit, will prove, we trust, the speedy forerunner of increased facilities. The Pacific Railroad will, as soon as commerce shall begin fully to realize its advantages, demonstrate the necessity of rich improvements on railroading so as to render practicable the transportation of freights at much less rates than are possible under any system which has been thus far anywhere adopted. The day is not far distant when three tracks will be found necessary to accommodate the commerce and travel which will seek a transit across this continent. Freight will then move only one way on each track, and at rates of speed that will answer the demands of cheapness and time. Cars and engines will be light or heavy, according to the speed required, and the weight to be transported. In conclusion I will add that we hope to do, ultimately, what is now impossible on long lines—transport coarse, heavy and cheap products for all distances at living rates to the trade. Now gentlemen, with your assistance we will proceed to lay the last tie and last rail and drive the last spike."

General Dodge for the Union Pacific Railroad responded briefly as follows: "Gentlemen, the great Benton proposed that some day a giant statue of Columbus should be erected on the highest peak

of the Rocky Mountains, pointing westward, denoting this as the great route across the continent. You have made that prophecy, today, a fact. This is the way to India."

Mr. Coe, of the Pacific Union Express Company, then presented to Governor Stanford a silver spike maul.

The last tie upon which the rails of the two roads met was put in position by the two superintendents of construction, J. H. Strowbridge of the Central Pacific, and S. B. Reed of the Union Pacific, the former handling the north end and the latter the south end of the tie. It was eight feet long, eight inches wide and six inches thick, and was made of California laurel, beautifully polished, and ornamented with a silver plate, bearing the names of the directors and officers of the Central Pacific Railroad Company and the following inscription: "The last tie laid on the completion of the Pacific Railroad, May 10th, 1869; presented by West Evans; manufactured by Strahle & Hughes, San Francisco."*

It was now half past twelve, and at a given signal Governor Stanford, standing on the south side of the rail, and Dr. Durant, standing on the north side, struck the spikes and drove them home. Telegraphic connection had been made in such a manner that the blows of the hammer on the spike were sent vibrating along the wires to every telegraph office between the Atlantic and the Pacific, between the Great Lakes and the Gulf of Mexico. This was done by attaching the wires to the spike mauls, every blow from which announced itself as it fell. In San Francisco the wires were connected with the fire alarm in the Tower, and in Washington with the bell of the Capitol, so that the strokes of the silver sledge, sending forth the joyful news of the marriage of the Oceans, east, west, north, south, to Chicago and New Orleans, to Washington and San Fran-

* Says Mr. Nichols: "Immediately after the ceremonies the laurel tie was removed for preservation, and in its place an ordinary one substituted. Scarcely had it been put in its place before a grand advance was made upon it by curiosity seekers and relic "hunters," and it was divided into numberless mementoes, and as fast as each tie was demolished and a new one substituted this too shared the same fate, and probably within the first six months there were used as many new ties."

cisco, were not only heard throughout the land, but were sent ringing down the Potomac and out through the Golden Gate to greet old Neptune in his watery realm and acquaint him with the glad tidings.*

No sooner was the spike driven than the pent-up feelings of the multitude that had witnessed the act burst forth in a thunderous storm of hurrahs. Three cheers were given for the Government of the United States, for the Railroad, for the Presidents, for the Star-Spangled Banner, for the laborers and for those who had furnished the means to build the road.

“PROMONTORY SUMMIT, UTAH, May 10th.

“THE LAST RAIL IS LAID! THE LAST SPIKE IS DRIVEN! THE PACIFIC RAILROAD IS COMPLETED! The point of junction is 1,086 miles west of the Missouri River, and 690 miles east of Sacramento City.

LELAND STANFORD,

Central Pacific Railroad.

T. C. DURANT,

SIDNEY DILLON,

JOHN DUFF,

Union Pacific Railroad.”

Such was the official announcement of the event, telegraphed to the Associated Press immediately after the driving of the last spike. A similar telegram was sent to the President of the United States—Ulysses S. Grant. Before either had sped, however, the following dispatch was received from several prominent Californians in New York:

“*The Presidents of the Central Pacific and Union Pacific Railroads at the Junction:*

“To you and your associates we send our hearty greetings upon the great feat this day achieved, in the junction of your two roads,

*The same electric flash, it is said, sent the reverberating discharge of 220 guns from the batteries of San Francisco.

and we bid you God-speed in your best endeavor for the entire success of the Trans-American highway between the Atlantic and the Pacific, for the New World and the Old."


At the conclusion of the proceedings the two locomotives standing face to face moved up until they touched each other, and a bottle of wine was poured as a libation on the last rail.

Thus was the great railway completed. Thus was accomplished the mightiest human achievement of modern times. Thus, over Utah, the keystone of the arch, the mediator of the hour, the East and the West shook hands, and the continent was girdled with its belt of steel.

CHAPTER XII.

1869-1871.

REJOICINGS OVER THE ADVENT OF THE RAILWAY—THE CELEBRATION AT SALT LAKE CITY—THE UTAH CENTRAL, THE PIONEER LOCAL LINE, CONSTRUCTED—CEREMONIES ATTENDING ITS COMPLETION—THE UTAH SOUTHERN RAILROAD AND ITS EXTENSION—THE UTAH NORTHERN—THE CITY OF CORINNE—THE UTAH AND NEVADA RAILWAY—THE DEVELOPMENT OF THE MINES—RICH DISCOVERIES IN LITTLE COTTONWOOD—THE EMMA AND THE FLAGSTAFF—THE OPHIR DISTRICT—THE FIRST SHIPMENTS OF UTAH ORE—THE PIONEER SMELTERS AND REDUCTION WORKS—RAPID GROWTH OF THE MINING INDUSTRY RESULTING FROM THE COMING OF THE RAILWAY.

HE news of the driving of the last spike and the welding of the two great railways at Promontory reached Salt Lake City at thirty-two minutes past noon, being flashed over the wires to Utah's capital, and to the various settlements along the line of the Deseret Telegraph, simultaneously with its transmission throughout the length and breadth of the Union. Instantly the stars and stripes were unfurled from public buildings and at other prominent places, brass and martial bands stationed expectantly at several points struck up lively airs, and artillery salutes were fired from Arsenal Hill and from the vicinity of the City Hall and the County Court House. The principal stores and manufactories, public and private offices were then closed and business was suspended for the rest of the day.

At 2 p. m., between six and seven thousand citizens had assembled at the Tabernacle. On the stand were His Excellency, Governor Durkee, Hons. George A. Smith, John Taylor, William H. Hooper and John M. Bernhisel; Hon. John A. Clark, Surveyor-General of Utah; Bishop Edward Hunter, Aldermen S. W. Richards and A. H. Raleigh and General R. T. Burton. The last named

three were a committee previously appointed by the City Council to arrange for the celebration now begun. President Young, President Wells, Apostles Woodruff, Cannon and other prominent churchmen who would also have been present on the occasion had they been in the city, had started some time before on their customary annual tour through the southern settlements.

Judge Elias Smith was elected president of the meeting, A. M. Musser, secretary, Messrs. G. D. Watt and D. W. Evans, reporters, and Colonel J. C. Little, chaplain. Prayer having been offered, the following named gentlemen were appointed a committee to draft resolutions expressive of the sense of the meeting on the completion of the Pacific Railroad: Surveyor-General Clark, Colonel W. S. Godbe, Hon. J. M. Bernhisel, Postmaster A. W. Street and Colonel J. C. Little. Croxall's and Huntington's bands discoursed stirring and appropriate music, and speeches were made by Governor Durkee, Hons. John Taylor, George A. Smith and William H. Hooper. Three cheers were given for the Union Pacific and Central Pacific companies, "the heroes who have consummated the work," and three more for the national government. The committee previously appointed reported the following:

PREAMBLE AND RESOLUTIONS.

Whereas the last rail is now laid on the iron road which bridges from ocean to ocean this vast land of liberty and progress:

Resolved, That the people of Utah—the great pioneers of the Rocky Mountains—receive with acclamation the glad news of the completion of the mighty work to which as a people they have contributed their part; and hand in hand with the great circle of States and Territories now rejoicing in union over the event, do thank God for its accomplishment.

Resolved, That in this national event we recognize a preparation for the permanence and material prosperity of the nation; and an indication of her manifest destiny to become the great HIGHWAY OF COMMERCE FOR THE WORLD, and a medium for the exchange of the riches of Asia with the industrial products of Europe.

Resolved, That in the union of the extremities of the Continent by the Great Railway now completed we discern the purpose of Providence to perfect the unity of the family of States in this mighty nation.

Resolved, That in this binding with ties of commerce and mutual interest the sovereign States of the Republic, and in extending the links until they lave in the waters

of the Pacific and Atlantic oceans, we recognize a fore-type of the coming days when on the opposite shores shall be reflected and felt the spirit and genius of those institutions of which our Republic is ever to be the great exemplar.

Resolved, That in celebrating the day that witnesses the spanning of the desert by the iron road, we also honor the projectors and executors of the work; but most the Nation whose magnanimity has, with a rapidity unparalleled, caused its construction.

The preamble and resolutions were unanimously adopted, and Colonel David McKenzie then took the stand and read to the assembly the railroad memorial sent to Congress by the Utah Legislature during its first annual session, in March, 1852. Music, toasts and sentiments followed and the meeting then adjourned. In the evening the business portions of the city were beautifully illuminated, there was a huge bonfire on Arsenal Hill and displays of fireworks in various parts in honor of the great event at Promontory.

The same month that witnessed the completion of the great trans-continental highway saw the inception of the Utah Central Railroad, the pioneer local line, uniting Salt Lake City with the Union Pacific and Central Pacific roads at Ogden. The Utah Central Company had been organized on the 8th of March of this memorable year. Its projector was Brigham Young, who, at the railroad mass meeting at Salt Lake City, in June, 1868, had said concerning the Union Pacific and Central Pacific lines: "If the company which first arrive should deem it to their advantage to leave us out in the cold, we will not be so far off but we can have a branch line for the advantage of this city." As soon, therefore, as it was definitely ascertained that it was the design of the companies named to leave Salt Lake "out in the cold," President Young proceeded to make good his prediction concerning "the branch line." Hence the creation of the Utah Central Company. Its organizers were Brigham Young, Joseph A. Young, George Q. Cannon, Daniel H. Wells, Christopher Layton, Bryant Stringam, David P. Kimball, Isaac Groo, David O. Calder, George A. Smith, John Sharp, Brigham Young, Jr., John W. Young, William Jennings, Feramorz Little and James T. Little. These stockholders were all Mormons, and all but

one residents of Salt Lake City. The exception was Christopher Layton, of Kaysville, Davis County, through which part the new road was to pass.

In the building of the Utah division of the Union Pacific line President Young had advanced considerable means, and at its completion the amounts owing to him and to other Utah contractors from the Union Pacific Company aggregated a large sum. Lack of funds prevented a prompt settlement, and much dissatisfaction resulted. Finally, however, through the energetic efforts of Bishop John Sharp, Apostle John Taylor and Hon. Joseph A. Young, a committee entrusted by the President with the winding up of the business, and who proceeded to Boston for the purpose of pressing the claims of local contractors upon Dr. Durant and his associates, a settlement was effected. The Utah men, however, were obliged to accept, in lieu of the same amount in cash, six hundred thousand dollars' worth of railroad stock. But this proved a benefit rather than a detriment to the Territory, for it expedited the inauguration of the local line.

The first ground was broken for the building of the Utah Central Railway on Monday, May 17th, 1869. The point of beginning was near Weber River, just below the city of Ogden. The weather was bright and beautiful, and a large concourse of people assembled, including the principal men of Weber County and many notable citizens of Salt Lake. Among them were the following named officials of the new company: Brigham Young, president; William Jennings, vice-president; John W. Young, secretary; Daniel H. Wells, treasurer; Jesse W. Fox, chief engineer; Feramorz Little, Christopher Layton and Brigham Young, Jr., directors. Hons. George A. Smith, John Taylor, Ezra T. Benson, Franklin D. Richards, Lorin Farr and Chauncey W. West were also present. Joseph A. Young, superintendent of the company, and Bishop Sharp, assistant superintendent, were absent; the former being in the East on business connected with the road. It was not quite 10 a. m. when President Young, after a few preliminary remarks, cut

with a spade the first sod, observing as he did so that it was customary in breaking first ground to use a pick, but that he believed in using the tool best adapted to the soil. President George A. Smith offered prayer, dedicating the ground for a railroad and invoking heaven's blessing on the enterprise. President Young then removed the sod that he had cut, after which President Smith, President Wells, William Jennings and others cut sods. Three cheers were given for the president of the road, and after the band had played the assembly dispersed.

A free right of way for the Utah Central Railroad was obtained by A. M. Musser, Esq., acting as its agent for that purpose, and the work of grading was at once begun.* No large contracts were let in the building of this line, which was literally constructed by "the people," who, as a part of their remuneration, took stock in the road.

Within a little over eight months the line was completed, and on Monday, January 10th, 1870, the last spike was driven by President Brigham Young, at the depot grounds in the western part of Salt Lake City. It is due to this important event to briefly chronicle the proceedings on that interesting occasion.

The weather, unlike that of the bright May morning which had witnessed the inauguration of the work, was cold and frosty, the sun being obscured for most of the day behind a canopy of fog and cloud. But just before the laying of the final rail and the driving of the last spike the mists were dispelled and old Sol's glorious face beamed radiantly upon the scene. Three guns were fired a little after mid-day as a signal for the raising of flags throughout the city, and the assembling of the people from all parts to witness the ceremony. Between 1 and 2 p. m. the train bringing invited guests from Ogden and the north came in sight and steamed up to the end of the track where the last pair of rails were ready to be laid.

*Several years later, after the road was well established, the right of way was paid for by the company.

Fully fifteen thousand people had by this time assembled, and preparations were made to begin.

Seated on an open platform car overlooking the scene were Brigham Young, president; William Jennings, vice-president; Daniel H. Wells, Feramorz Little, Christopher Layton and Brigham Young, Jr., directors; Joseph A. Young, general superintendent, and John W. Young, secretary, of the Utah Central Railroad Company; also Hons. George A. Smith, Orson Hyde, John Taylor, Orson Pratt, Wilford Woodruff, Charles C. Rich, Lorenzo Snow, Franklin D. Richards and George Q. Cannon. Representing the Union Pacific and Central Pacific companies, were the following named gentlemen: C. C. Quinn, master mechanic, T. B. Morris, chief engineer Utah division; Colonel Carr, assistant superintendent Utah division; J. McCormick and S. Edwards, agents, and Walter McKay, cashier, U. P. R. R.; G. B. Blackwell, agent Pullman's palace cars; J. E. McEwan, master mechanic; G. Cornwell, conductor Utah division; J. Forbes, general freight agent, and James Campbell, superintendent Utah division of the C. P. R. R.

Guests from Camp Douglas: General Gibbons, Colonels Hancock and Spencer, Captain Hollister, Major Benham, Lieutenants Sanno, Coolidge, Benson, Armstrong, Brandt, Jacobs, Graffan and Wright. Occupying a seat at the reporter's table was Colonel Finley Anderson, special correspondent of the *New York Herald*. The Camp Douglas, Captain Croxall's, and the Tenth Ward brass bands, and Captain Beesley's martial band were in attendance.

The driving of the last spike took place at about nine minutes past 2 p. m. President Young used for this purpose a large, elegantly chased steel mallet made by James Lawson, at the Church blacksmith shops in this city. Engraved upon the top of the tool was the emblematical bee-hive, surmounted by the inscription: "Holiness to the Lord," and underneath the bee-hive were the letters, U. C. R. R. The spike, which was ornamented in a similar manner, was of home-made iron, manufactured in southern Utah some years previously by Colonel Nathaniel V. Jones. The spike

was also made by Mr. Lawson. Immediately after the ceremony, a salute of thirty-seven guns—one for each mile of the road—was fired.

After music by Captain Croxall's band, Apostle Wilford Woodruff offered the dedicatory prayer. Hon. George Q. Cannon, in behalf of President Brigham Young, then read the following address:

Whilst joining in the pleasing ceremonies of this eventful and auspicious day, our minds naturally revert to the circumstances which led this people to undertake their weary but hopeful journey across the desert plains and rugged mountains to these then sterile valleys,—to our condition at the time of our advent here, poor and destitute of the common necessities of life; driven from our homes and possessions and bereft of all that makes life comfortable in consequence of our faith in God and in His Son Jesus Christ, and our obedience to His holy gospel, and without a friend in this wide world to whom we could look for help, except God our Heavenly Father alone, on whom we could rely.

Since the day that we first trod the soil of these valleys, have we received any assistance from our neighbors? No; we have not. We have built our homes, our cities, have made our farms, have dug our canals and water ditches, have subdued this barren country, have fed the strangers, have clothed the naked, have immigrated the poor from foreign lands, have placed them in a condition to make all comfortable and have made some rich. We have fed the Indians to the amount of thousands of dollars yearly, have clothed them in part, and have sustained several Indian wars, and now we have built thirty-seven miles of railroad.

All this having been done, are not our cities, our counties and the Territory in debt? No; not the first dollar. But the question may be asked, is not the Utah Central Railroad in debt? Yes; but to none but our own people.

Who has helped us to do all this? I will answer this question. It is the Lord Almighty. What are the causes of our success in all this? Union and oneness of purpose in the Lord.

Having by our faith and unaided labors accomplished the work and achieved the triumph, which we today celebrate, we are now asking the parent Government to sanction our labors in this commendable work, and the people of this Territory are also asking to be admitted as a sovereign State into the Union, with all the rights and privileges of a state government; and I move we have one. Let all in favor of it say "Aye." [A unanimous "Aye" from the assembled thousands was the response.]

We have felt somewhat to complain of the Union Pacific Railroad Company for not paying us for the work we did in grading so many miles of their road. But let me say if they had paid us according to agreement this road would not have been graded and this track would not have been laid today. It is all right.

To our friends of the Union and Central Pacific railroads, we offer our congratulations on their success in their mighty enterprise. Receive our thanks for your kindness to our company; for, so far as I have learned, you have refused us no favor. Let us be

one in sustaining every laudable undertaking for the benefit of the human family; and I thank the companies for their kindness to us, as companies, as superintendents, as engineers, as conductors, etc.

I also thank the brethren who have aided to build this our first railroad. They have acted as Elders of Israel and what higher praise can I accord to them, for they have graded the road, they have laid the rails, they have finished the line, and have done it cheerfully "without purse or scrip."

Our work is not one for individual benefit, but it is an aid to the development of the whole country, and tends to the benefit and prosperity of the whole nation of which we form a part.

To all present I would say, let us lay aside our narrow feeling and prejudices and as fellow citizens of this great republic join in the celebration of this happy day. May the blessings of heaven rest upon us all."

Telegrams were also read from Governor Leland Stanford, president; A. N. Towne, general superintendent, and S. S. Montague, chief engineer of the Central Pacific Company, offering congratulations on the completion of the new railroad and expressing regrets at their inability to be present at the celebration in response to the invitation of President Young.

Music by the Camp Douglas band was followed by a speech from Hon. William Jennings. He said that he was proud to be a citizen of Utah and to participate in the celebration then in progress. The construction of thirty-seven miles of railroad might seem to some a trifling affair, but considering that it had been done by a people isolated and surrounded by inconveniences, unaided by State or Nation, he thought it was justly entitled to the distinction of being considered a great enterprise.

A salute of one gun and music by the martial band,—after which came a speech from Hon. Joseph A. Young. He drew the contrast between the time when the Pioneers, barefoot and almost without clothing, came into these desolate valleys, and today when they and their children could witness the laying of the last rail and the driving of the last spike of the Utah Central Railroad. It was a work that he felt proud of, and the people all had reason to feel likewise. The Saints had been called exclusive, but where was their exclusiveness now? They invite East, West, North and South to

come up to Zion and learn of her ways. "The more our actions and works as a people are investigated," said he, "the higher we stand in the estimation of those whose good opinion is worth having." [Cheers.] He hoped that the last spike of this road would be but the first of the next, extending from this place to the "cotton country," and that he would live to see the day when every nook and corner of the Territory capable of sustaining human beings would be settled by good, honest, hard-working people, and penetrated by railroads.

The Tenth Ward Band then played, a salute of one gun was fired, and Colonel Carr, of the Union Pacific Railroad was introduced. Said he, after presenting the regrets of Superintendent Meade at being unable to attend: "This is an occasion of congratulation to all of you, but to us who are strangers, it is more an occasion of wonderment than anything else. We, who have come recently from the East, never expected to find anything like this in this country. It is something like forty years since the first railroad was laid in the United States, and twenty years ago there were only six thousand miles laid in all this vast country; but when the Union and Central Pacific lines were completed there were over forty thousand miles. The Utah Central Railroad, although only thirty-seven or thirty-eight miles long, is perhaps the only railroad west of the Missouri River that has been built entirely without Government subsidies; it has been built solely with money wrung from soil which, a few years ago, we used to consider a desert, by the strong arms of the men and women who stand before me. And almost everything used in its construction, but especially the last spike, is the product of the country. Your superintendent, Mr. Young, said that you are not an exclusive people; but I think, ladies and gentlemen, you are very much so, so far as the western country is concerned, in accomplishing so much as you have with so little means, and so few advantages to do it. [Great cheering.] All that I have to say further in regard to exclusiveness, is that I cannot imagine how any man, whether Mormon, Gentile, saint or sinner,

can do other than feel happy at the completion of this road. I wish it the utmost success on its journey to the far south."

After more music and firing, Chief Engineer Morris, of the Western Division of the U. P. R. R. was introduced and said: "I have but one word to say to the workingmen of Utah, and that I would say briefly. I have been fifteen years engaged in railroad business; but I have never seen a single road made to which capitalists did not contribute their money, or the responsibility of which did not fall upon the Government, or the State in which said road was made. But here nearly forty miles of railroad have been built, every shovelful of dirt of which has been removed by the workingmen of Utah, and every bar of the iron of the road has been placed in position by their labor. [Loud cheers] You can publish to the world that the workingmen of Utah build and own this road. I have said one thing, and I want to say one thing more. Do not stop where you are. When you laid the last two rails today, they stuck out a little. That means—'Go on.'"

Brief speeches followed from Hon. John Taylor and James Campbell, Esq., Superintendent of the Utah Division of the Central Pacific Railroad. Other addresses were expected, but owing to the coldness of the weather and the length of the exercises they were omitted. A benediction by Elder Henry W. Naisbitt closed the ceremonies.

At night the city was brilliantly illuminated. There was a great bonfire and a special pyrotechnic display on Arsenal Hill, and fireworks in various parts of the town. Among the numerous transparencies exhibited were the following: "Hail to the Utah Central," "Welcome the great Highway," "Utah stretches her arms to the two Oceans." Among the mottoes on the *Deseret News* office were two reading: "Welcome the first Locomotive," "The Pioneer Paper welcomes the Pioneer Railroad." A grand ball and supper at the Theater, attended by leading Church officials, prominent merchants of the city—Mormon and Gentile—officers from Camp Douglas, and many prominent citizens, made a fitting finale for the day's memorable proceedings.

Thus was celebrated one of the most important events in the history of this Territory. Henceforth Utah was to have steam communication, as she already had electrical communication with the outside world. Henceforth she would stand face to face with all the good and evil that modern civilization represents. "The result we fear not," said the *News*, speaking for the Mormon people, "believing that the advantages that will accrue therefrom will far outweigh any disadvantages that can possibly arise. The days of isolation are now forever past. We thank God for it."

The work of railroad building went on. The next line begun was the Utah Southern, commenced in May, 1871, and completed to Juab, a hundred and five miles south of Salt Lake City, in June, 1879. Thence the Utah Southern Extension was constructed to Frisco, a hundred and thirty-seven miles farther, between the spring of 1879 and the summer of 1880.

The Utah Southern Railroad Company was organized on the 17th of January, 1871, by the following named stockholders: Joseph A. Young, William Jennings, John Sharp, Feramorz Little, John Sharp, Jr., James T. Little, Le Grand Young, L. S. Hills, S. J. Jonassen, Thomas W. Jennings, James Sharp, George Swan, Jesse W. Fox, D. H. Wells and Christopher Layton. The first president of the company was William Jennings, who was succeeded by Brigham Young, after whom Mr. Jennings again took the presidency. John Sharp was vice-president, and Feramorz Little, superintendent. Ground was broken for the construction of the road on May 1st, 1871, at Salt Lake City, and in September of that year it was completed and opened for traffic as far as Sandy, thirteen miles south of this city. A year later it reached Lehi in Utah County, and in fourteen months more was at Provo, the principal town in that county and now the third city of the Territory. Provo by rail is forty-eight miles south of Salt Lake. From Provo to York it is twenty-seven miles. The Utah Southern reached the latter point on April 1st, 1875, and from there, after a rest of several years, made its way to the Juab terminus.

Just after the beginning of the Utah Southern, came the inception of the Utah Northern Railway, a narrow-gauge line extending from Ogden through the counties of Weber, Box Elder and Cache, and thence into Idaho. Its projector was John W. Young, who, in conjunction with the Messrs. Richardson and other eastern capitalists, and the people of Northern Utah, built the road from Ogden to Franklin. It was August 23rd, 1871, that the Utah Northern Railroad Company was organized, with John W. Young as president and superintendent, and William B. Preston, of Logan, Cache County, as vice president and assistant superintendent.* During the same month ground was broken at Brigham City, and there the first rail was laid on the 25th of the ensuing March. Thence the road was extended northward, arriving at Logan on January 31st, 1873, and at Franklin, the Idaho terminus, about sixteen months later.

From Brigham Junction, a branch line of four miles connected the U. N. R. R. with Corinne, a railroad town on the Central Pacific, a few miles above the mouth of Bear River. Corinne had sprung up early in 1869, with the coming of the transcontinental railway.

*Prior to the building of the U. N. R. R. and while the project was under consideration, the following telegrams passed between President Brigham Young and Bishop William B. Preston, in relation to the enterprise:

“LOGAN, August 15, 1871.

President B. Young, Salt Lake City:

Will it be wisdom for us in Cache County to grade and tie a railroad from Ogden to Soda Springs, with a view to Eastern capitalists ironing and stocking it; thereby giving them control of the road? The people feel considerably spirited in taking stock to grade and tie, expecting to have a prominent voice in the control of it; but to let foreign capitalists iron and stock it will, if my judgment is correct, give *them* control.

W. B. PRESTON.

“SALT LAKE CITY, August 15, 1871.

Bishop Preston, Logan:

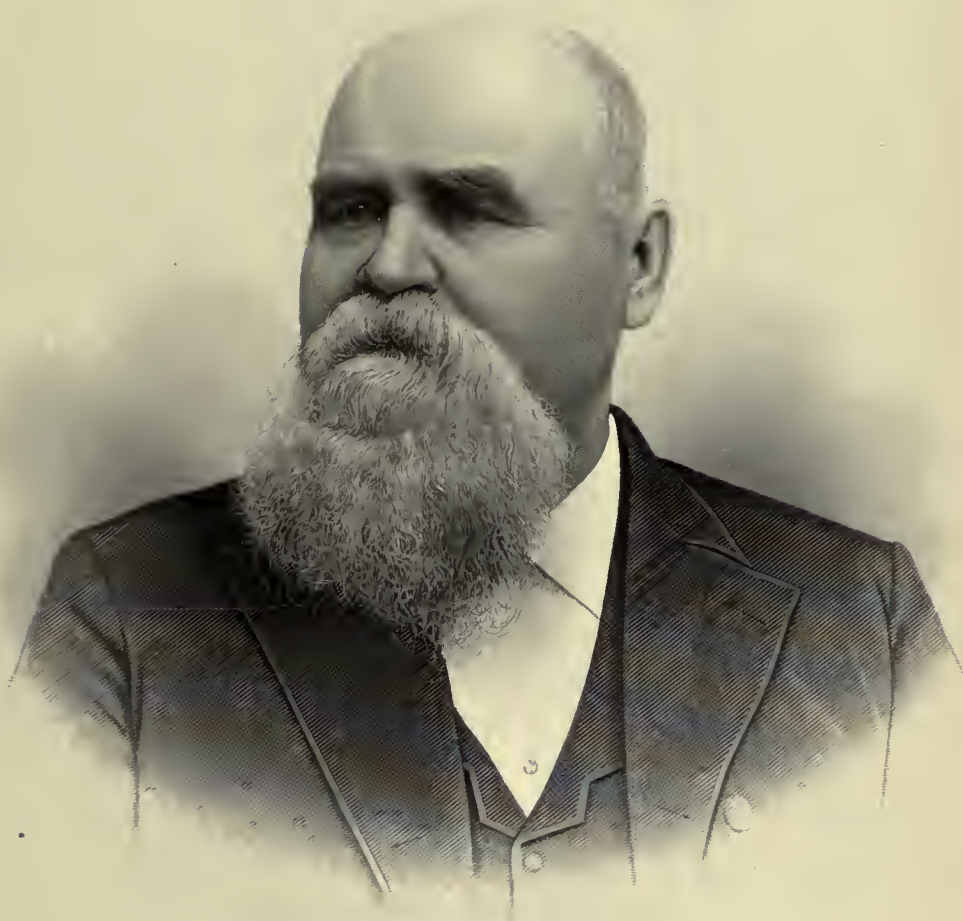
The foreign capitalists in this enterprise do not seek the control; this is all understood. What they want, and what we want, is to push this road with all possible speed, if you decide to have one, so that it shall run through and benefit your settlements and reach Soda Springs as soon as possible.

BRIGHAM YOUNG.”

Among its early citizens were General J. A. Williamson, for whose daughter, Corinne, the town is said to have been named; General P. E. Connor, J. W. Guthrie, Alexander Toponce, J. W. McNutt, N. S. Ranschoff, F. J. Kiesel, John W. Lowell, George A. Lowe, O. J. Hollister, A. Greenewald, L. Reggel, Judge Toohy, M. T. Burgess, John Tiernan, E. P. Ferris, C. R. and Milton Barratt, and Messrs. Beadle and Adams (newspaper men) with many others whose names are well known in local history. An excellent portrait of J. W. Guthrie, Esq., the banker of Corinne, who has several times been mayor of that place, and is known as one of the leading financiers of Northern Utah, and a man big-hearted and generous in his public and private dealings, is included among the steel engravings that adorn this volume. Of him and the town that he represents, more will be said hereafter.

The branch railway connecting Corinne with the main line of the Utah Northern was completed in June, 1873. Within the next eight months the road was extended southward from Brigham City to Ogden. Succeeding John W. Young, Moses Thatcher became superintendent of the Utah Northern, and he was succeeded by M. W. Merrill, also of Cache County. Later, George W. Thatcher took the superintendency and continued in charge of the road until after it had passed, like its predecessors, the Utah Central and Utah Southern, into the possession of the Union Pacific Company. President Jay Gould changed its name to the Utah and Northern, and some time afterward it became a standard-gauge line. Prior to that, however, it was pushed northward from Franklin, connecting with the Oregon Short Line at McCammon Junction. It is now a portion of the system which penetrates the great North-west, with its principal termini at Helena, Montana, and at Portland, Oregon.

The Utah and Nevada Railway, extending westward from Utah's capital to and along the southern shore of the Great Salt Lake, thence around the Oquirrh Mountains and southward across Tooele Valley toward Rush Valley, was begun in April 1873. After reaching a point on the lake about twenty miles west of this city,



J. W. Guthrie

where soon sprang up the celebrated bathing resorts which have done so much to enhance the fame of Utah's inland sea,* the railroad halted for a season, but was subsequently extended to Stockton station, a little north of Rush Valley. The town of Stockton proper had been founded in the summer of 1864 by parties of soldiers from Camp Douglas, who, pursuant to the policy of their commander, General Connor, were prospecting for mines west of the Oquirrh. The place was originally called Camp Relief, but after General Connor, Major Gallagher and others had laid off the town it took the name of Stockton. Suffice this for the present upon the subject of Utah's railways, regarding which a future chapter will deal more comprehensively.

One great result of the coming of the railway was the development of the local mining industry. From the fall of 1863, when General Connor and his associates made the pioneer movement in this direction, to the years 1868, 1869 and 1870, when Messrs. J. F. Woodman, Robert B. Chisholm, the Woodhulls, the Walkers and other capitalists became actively interested therein, but little practical work was done toward the opening of Utah's mines, notwithstanding the claims of those whose avowed purpose, in stating to the contrary, was, as has been shown, "to invite hither a large Gentile and loyal population," in order to reconstruct the Territory and overthrow the Mormon power. True, much money was expended by General Connor and his California friends, whom he persuaded to embark with him in this precarious enterprise, and among the first, if not the very first, smelting furnaces in Utah were erected by them in Rush Valley. There, after the original discovery in Bingham Canyon, many mining claims had been located. Other officers of Camp Douglas also formed companies and built furnaces in and around Stockton. But owing to inexperience in smelting ores, scarcity of charcoal and high

*The first bathing resorts were at Black Rock, Lake Point and Garfield, the last of which is now the most popular. There are other resorts on the eastern shore of the lake, such as Syracuse, Lake Park and Saltair.

rates of transportation, they soon became bankrupt. A company called the Knickerbocker and Argenta Mining and Smelting Company, organized in New York to operate in Rush Valley, met with no better success. Its projectors, after investing about one hundred thousand dollars in mines and materials with which to work them, finding it impossible in the absence of a railway to make them pay, despairingly abandoned the undertaking. It was now the latter part of 1865, and the mining movement rested to await the advent of the iron horse, when cheaper and speedier transportation, reduction in prices of materials and the influx of capital would solve the difficulties surrounding the struggling enterprise and place it on its feet as a profitable industry.

Soon after the close of the Civil War the volunteers at Camp Douglas were disbanded, being relieved by regular troops from the East. Most of those who had mining prospects, after meeting together and amending the mining laws so as to make claims perpetually valid which had had but little work done upon them, left the Territory to seek employment elsewhere. This action, preventing as it did all subsequent relocation of the same ground, greatly retarded, and in fact prevented for some years the development of the mines in the Rush Valley district. This district embraced all the western slope of the Oquirrh Mountains, just as the West Mountain district, previously mentioned, comprised all the eastern slope, from Black Rock to the southernmost limit of the range.

In the Wasatch Mountains the first discovery of silver-bearing lead ore was made in the summer of 1864 by General Connor. The place was Little Cottonwood Canyon, where subsequently were located some of Utah's most famous lodes. Nothing, however, was done toward their development until about four years later when the Little Cottonwood Mining District was organized and the Woodhull Brothers and Messrs. Woodman, Chisholm, Reich and others began operations upon the mines in that vicinity. The first shipment of galena ore from Utah was in the summer of 1869. The shippers

were the Woodhulls, Captain Woodman and their associates. The ore was in small quantities, and was the first out-put of the afterwards famous Emma Mine. It was sent to the reduction works of Thomas H. Selby & Co., San Francisco. This shipment was followed by others in the fall of that year by the same parties. An early shipment of the Emma ore was to James Lewis & Co., Liverpool, England. This was smelted at Swansea in Wales. The success of these ventures gave an impetus to mining all over the Territory. Prospectors sallied forth, climbing the hills in every direction; new mines were discovered and located, and the work of developing those already found and made productive was energetically pushed forward. In Little Cottonwood District were such mines as the Emma, located by Captain Woodman in 1868, and sold December 9th, 1871, to British capitalists for a million pounds sterling;* the Flagstaff, originally owned by Nicholas Groesbeck & Sons, and disposed of in the same market for three hundred thousand pounds; and the Last Chance, Hiawatha, Montezuma and Savage mines, which were purchased in a group by Detroit and New York capitalists for \$1,500,000.

During the excitement caused by the rich developments in Little Cottonwood, "horn" silver was discovered in East Canyon, in the Oquirrh Range, in what was then a portion of the Rush Valley District, but which subsequently became known as the Ophir District. The first location made there was in August, 1870. It was the Silveropolis mine, the first workings of which—forty tons—shipped west by the Walker Brothers, netted \$24,000. Other locations in the Ophir District were the Tampico, Mountain Lion, Mountain Tiger, Petaluma, Zella, Silver Chief, Defiance, Virginia, Monarch, Blue

* The Emma Mine was named for Miss Emma Chisholm, daughter of Robert B. and sister to William W. Chisholm of Salt Lake City. Joseph R. Walker, Esq. who with his brothers bought into the mine in 1870, was the first president of the Emma Mining Company of Utah. Messrs Trenor W. Park and Henry H. Baxter of New York purchased a half interest in the mine for \$375,000 and it was they who, after buying out the other owners and reorganizing the Emma Mining Company in New York, placed the mine on the English market. Its subsequent history was not enviable.

Wing and many more. It was the richness of these finds and those in Little Cottonwood that made Utah famous as a first-rate mining field. Prospectors and capitalists from abroad now began pouring into the Territory, and General Connor's dream of "reconstruction and regeneration" seemed almost ready to be realized.

In the summer of 1870 smelters began to be built in Salt Lake Valley, the first one completed being that of the Woodhull Brothers, on Big Cottonwood Creek, eight miles south of this city. From these works were shipped the first bullion produced from the Utah mines. It was smelted from the ores of Little Cottonwood, notably those of the Monitor and Magnet mines. The Badger State Smelting Works, also south of the city, were begun in August, 1870, and produced their first bullion in March of the year following. Then came the Jennings and Pascoe smelter, just north of the Warm Springs, Colonel D. E. Buel's furnace at the mouth of Little Cottonwood Canyon, the smelting works of Buel and Bateman in Bingham Canyon, and many others in various places. Among the best of these were those of Colonel Buel, in Little Cottonwood. In East Canyon, in the Ophir District, was erected in May and June, 1871, the pioneer crushing and amalgamating mill. It had fifteen stamps, and was built by the Walker Brothers for working the silver ores of that vicinity. From the summer of 1869 to the fall of 1871, ten thousand tons of silver and gold ores, valued at \$2,500,000; four thousand, five hundred tons of gold and silver bullion, worth \$1,237,000; and two hundred and thirty-one tons of copper ore, valued at \$6,000, were shipped from the Territory. Silver bars, obtained by milling the silver ores, produced \$120,000. During the same period the annual product of gold from Bingham Canyon was increased by means of superior sluicing methods from \$150,000 to \$250,000. In 1868 the number of mining districts in the Territory was two; in 1871 there were thirty-two. Among these were the West Mountain, Rush Valley, Ophir, Little Cottonwood, Big Cottonwood, American Fork, Parley's Park, Tintic, Star and Sevier districts. Silver and lead were the staples of these

mines, but gold was also found, not only in Bingham Canyon, but in other places. And thus were the first mines of Utah opened and developed. Regarding the later discoveries, such as the Ontario, the Daly, the Horn Silver, the Silver Reef mines—those puzzlers to geologists and mining experts—and many others, full accounts will be given in the proper place. What is here stated is only intended as a passing glance at the pioneer workings of this now important industry.

The completion of the Utah Central Railroad in the spring of 1870, and the building of its extension, the Utah Southern, did a great deal, as was anticipated, toward the development of the mining industry. Connecting lines to Bingham, Little Cottonwood and American Fork canyons were soon constructed, and the ores from those localities found ready and speedy transit to the mills and smelters at home and abroad.

CHAPTER XIII.

1868-1871.

ZION'S CO-OPERATIVE MERCANTILE INSTITUTION—ITS INCEPTION AND PROGRESS—ITS OFFICERS AND PROMOTERS—IMMENSE BUSINESS RESULTS—HOW IT HAS FULFILLED ITS MISSION—REVIVAL OF THE UNIVERSITY OF DESERET—DAVID O. CALDER'S COMMERCIAL SCHOOL—THE DESERET ALPHABET—DR. JOHN R. PARK THE UNIVERSITY'S PRINCIPAL—DISTINGUISHED VISITORS BY RAIL—THE UNITED STATES LAND LAWS EXTENDED OVER UTAH—FEDERAL OFFICIALS OF THE TERRITORY UNDER THE GRANT-COLFAX REGIME—THE FIRST NON-MORMON CHURCHES IN UTAH.

PARALLEL with the advent of the railway was the establishment throughout Utah of the great commercial system known as Zion's Co-operative Mercantile Institution. It will not be maintained or even claimed for Brigham Young and the Mormon people that he was the first to found and they the first to succeed in co-operation. Early in the present century thoughtful commercial reformers in Europe had agitated and in some measure achieved success in this direction. In our own country, too, co-operative stores, assured of the patronage of the classes they proposed to benefit, were able to enter into competition against individual enterprise. Meager as were their results, compared with their pretensions, they nevertheless established the correctness of the principle on which they were founded, and gave assurance that under the right kind of circumstances and in the midst of a community prepared by interest, instinct or training to support it, co-operation in mercantile affairs could be made the grandest and most beneficent reform in all the history of commerce. It is in no sense derogatory to earlier agitators, therefore, to claim for the Mormon people and their great leader the merit of having developed the principle to the highest perfection it has known in the United States.



Eng^d by H. H. Balch's Sons, New York

Moses Fletcher

Indeed conditions could not have been more propitious for its establishment than those in which the people of Utah found themselves upon the completion of the transcontinental railway and just prior thereto. Salt Lake City had become the center of an extensive commerce. Not only the long chain of Mormon towns running through the Territory from Idaho to Arizona, but the cities and mining camps of the surrounding Territories, looked to Utah's metropolis as their source of supply. The days of tedious freighting by team from the Missouri River to the Great Basin were practically ended. True, those days had furnished a thorough school in which the spirit of daring commercial venture and business sagacity of the highest order had been developed. Utah merchants were esteemed in eastern trade circles as among the shrewdest and most successful in the land. Their credit was first-class; and notwithstanding the appearance of risk in sending large train-loads of goods into a distant region, twelve hundred miles across an unsettled and savage country, the records uniformly prove that such was the confidence in which they were held by the eastern wholesalers that they never needed to ask twice for the favors which generally come but slowly to young communities and mercantile houses of limited capital. With comparatively small means, they were able to conduct an extensive business, and as their profits were handsome the foundations of sure prosperity and large private fortunes were soon laid. The prevalent lack of money was in some sense a drawback, but it was not without its compensating benefits. The people had prospered in their flocks and herds and in all the products of farm, orchard and garden. These made a welcome medium of barter or exchange; and though the merchants may have seen their stock of merchandise decreasing with but slight additions to their stock of cash, they were consoled with the comfortable prospect of granaries and storehouses replete with precious contents that needed only energy and care to be converted into greenbacks, gold dust or Government drafts. Their wits were thus kept sharpened, and their freight teams well employed. Their profits, too, were materially increased. They had

a margin both on what they sold, and on that for which they sold it.

Competition, that great quickener of the commercial life-blood, early began to make itself and its good results manifest. The number of merchants, at first few, soon rapidly increased. Ogden and Provo, Logan and St. George, contributed their quota. The "big stores," with all their prestige and capital, were not left to enjoy the field alone. The instances where money had been quickly made were numerous enough to embolden other men to try their fortune in merchandising. Nor were these all Mormons. Keen-eyed strangers within our gates were not slow to detect the openings and opportunities for accumulating wealth; and at the time now spoken of it is probable that quite half the merchants of Salt Lake City were non-Mormons. Gradually a system of commission buying had come into popularity and prominence. This consisted in entrusting to a buyer of recognized shrewdness and honesty the business of purchasing in the eastern centers staple supplies for private customers with whom he dealt at first hand; his patrons obtaining goods at original cost plus the freight. Yet this was not wholly satisfactory. Not every one was forehanded enough to send off the means for a whole year's supply at once; nor were those who were thus fortunate contented in all respects with their venture. They found it impossible to compete in eastern prices with heavier buyers and difficult even to compete with them in freights.

Meantime the railway was becoming an accomplished fact, having passed beyond the stage of visionary speculation and entered upon that of actual work. It was drawing nearer and nearer to our borders from both east and west; and the most superficial mind could not but perceive that a new commercial era was about to open upon the Territory. Such a thing could least of all escape the far-seeing eye of Brigham Young, in whose hopes and desires and in those of his coadjutors, the temporal welfare of the people was so closely intertwined with the spiritual, as to be wholly inseparable. For years the burden of the Tabernacle discourses had been: "Trade

with and sustain your friends; let your enemies have none of your substance with which to work your downfall." It is true that up to this time the line had not been religiously drawn, for among the Gentile merchants were many who in their social and business intercourse with the Saints had won their confidence and were numbered among their friends. But as the railway project became more tangible there were threats and rumors, at first vague but afterwards definite and openly avowed, that that great civilizing agency would be used to break in pieces the Mormon Church. The Saints being deprived of their exclusiveness, disintegration, it was thought, would set in and their homogeneity with the rest of the country be accomplished. The Mormons, as we have seen, far from being appalled at this prospect, gave the railroad the warmest welcome and the heartiest support. Yet neither they nor their leaders felt impelled to throw away every safeguard, cut loose from every anchor, and place themselves unreservedly in the hands of those who had confessed themselves their enemies. Contact with the outside world they courted,—their temporary isolation having effected its purpose,—but they saw no need for the loose commingling that was fondly expected by their foëes, to wreck all that they held most dear. Hence the instructions of the leading men, both from the pulpit and through the press, became more and more positive as the locomotive drew near; and at the October Conference, 1868,—the first conference of the Church held in the Valley, by the way, at which there was present a full council of the Twelve Apostles,—a resolution was unanimously adopted pledging the people to be self-sustaining, the interpretation of which was, according to President Young's discourse at the time, that "a Latter-day Saint should not trade with an outsider."

To the latter class, a policy of this kind, religiously adhered to, meant little less than financial ruin. To the merchants who were not "outsiders" it meant a wonderful increase in business, the removal of competition except within prescribed circles, and the consequent improvement in the prospect for early affluence.

It requires but little acumen to discover that such a policy would have been but of limited benefit to the community at large. Some results desired by the Mormons it assuredly would have produced. Gathered out of the world that they might not be of it, they could still be brought into closest contact with influences that they had tried to escape, without losing their identity or their distinctiveness. But the proposed departure was fraught with evils which if unchecked could not but cause commercial retrogression. Chief among these was the removal of competition, sure foundation for the growth of monopoly. Deprived of the healthy friction which accompanied their struggle for success against the well-established Gentile merchants, there was serious danger that the large Mormon dealers would prove quite as susceptible to the promptings of greed and extortion as humankind elsewhere. The natural tendency would have been to crush out the small, weak competitors among their own people and concentrate the whole mercantile business of the surrounding country in the hands of a few. It was seen that such an effect would quickly defeat the purpose in view, and that it would be difficult to exact devotion to a principle in whose train were such opportunities for unrighteous oppression. Instead of promoting union, it would scatter discord among the people, and instead of combining their energies and aims, it would distract and weaken them.

But the enunciation of the exclusive commercial policy in the latter part of 1868 must be understood as only a preparatory step to the introduction of other measures. Among these nothing was more prominent than the establishment of co-operation. President Young's sermons during several months had been full of references to the subject, and the Church journal, the *Deseret News*, had editorially discussed it with much force and fervor. The time had come when the threatened inroad of opposing influences must be met with boldness and energy. The temporal oneness of the Saints must be conserved as sedulously as had been their spiritual unity. Besides, the United Order, essayed by the Saints in Ohio and



Thomas Gleadow.

Missouri, and declared by President Young to be essential to the perfection of the people, was not yet in operation. What more likely than that co-operation in its fullest development could be made a stepping stone to the establishment of the grander system? Convinced by actual experience that in doing business for themselves and dividing the profits among themselves, they were able to compete successfully against all opposition, why might not the people's confidence thus created extend to all other branches and departments of human existence? It was certainly worth the experiment, and there is no doubt whatever that such an ultimate purpose, to be subserved by the lesser undertaking, was then in the mind of the Mormon leaders.

Following close upon this momentous conference came a meeting of leading men from various parts of the Territory to take into consideration the business situation of the people. This meeting was held in the Social Hall at Salt Lake City, and a resolution was there adopted that the establishment of a co-operative wholesale store was feasible. Appointments for similar meetings, to be held within the next few days in the various wards of Salt Lake and adjoining counties, were made at the same time; the list of proposed speakers revealing the names not only of the resident Apostles but of such well-known citizens as Horace S. Eldredge, A. Milton Musser, Robert T. Burton, William Clayton, Edward L. Sloan, Robert L. Campbell and others. A. O. Smoot, ex-Mayor of Salt Lake City, but then, as now, a resident of Provo, presiding in the Utah Stake, and Apostle Joseph F. Smith were designated to present the subject to the people in Utah County, and the members of "the Twelve" residing in more distant counties, as well as presiding Elders in the various settlements, were requested to lay the matter before their respective flocks and take subscriptions, which were to be received at the office of Hon. William H. Hooper.

On Friday, the 16th of October, a meeting of shareholders in the contemplated store was held in the City Hall, Salt Lake City, when were elected the following officers: Brigham Young, president;

John M. Bernhisel, vice-president; those two gentlemen and George A. Smith, George Q. Cannon, Horace S. Eldredge, Henry W. Lawrence and William Jennings, directors; William Clayton, secretary, and David O. Calder, treasurer. Franklin D. Richards, Aurelius Miner, Henry W. Naisbitt and Joseph Woodmansee were appointed a committee on constitution and by-laws, and the secretary, whose office was now located in Eldredge & Clawson's store, was urged to collect the subscriptions by the 1st of November if possible, but by the end of the year at latest.

Whatever may have been the hopes and surmises of the opposition, here was indisputable evidence that the co-operative movement could not be derided into defeat. Launched with the aid of such men as constituted the board, its financial strength and status were at once assured; and the names of stockholders on the earliest list, comprising many from Weber, Davis and Utah counties, proved that the interest of the people generally was enlisted on the side of the new departure. The efforts of its antagonists, whether openly or secretly put forth, were therefore wholly unsuccessful; and almost before the committee on by-laws had had time to report, there were tenders of goods from friendly merchants, to be received for stock, and paid for on stipulated terms, amounting to nearly half a million dollars.

But large bodies proverbially move slowly. Delays ensued and gave some of the extreme ardor a chance to cool. The sentiment of the people underwent no change, but the heavy merchants began to argue that, after all, the amalgamation of so many interests, involving the loss of individuality, was only a gigantic experiment in which there was a considerable element of risk. Their lukewarmness did not take the form of active opposition,—as such it would have been more easily combated. It was merely a species of easy contentment, or “masterly inactivity.” Their Gentile competitors were cut off from Mormon trade, which must of necessity flow to themselves, and they were pretty well satisfied with the condition as it stood. President Young doubtless chafed under the unexpected turn

affairs had taken, but he inculcated patience in his associates and resolutely went forward in the accomplishment of the project whose success he never doubted for a moment.

Meanwhile other parts of the Territory were more readily brought into line on the prevailing question. In the latter part of November a convention held at St. George formed the "Southern Utah Co-operative Mercantile Association," with Erastus Snow as president, Jacob Gates, Robert Gardner, John Nebeker, Franklin B. Woolley, William Snow, Joseph Birch and W. H. Crawford, directors; James G. Bleak, secretary and treasurer, and F. B. Woolley, business agent, with Joseph Birch as his assistant.* Before the end of the year similar organizations had been effected in other counties, though active operations were not really inaugurated until some months later. Still the movement lagged in the chief city, the Territorial and Church headquarters, and but for a happy incident it might have been indefinitely postponed. This was neither more nor less than the actual establishment of a co-operative store at Provo, which, backed by the strongest and most successful business men in the county, as well as by Brigham Young himself with his money and influence, threatened to take from Salt Lake City the parent institution with which her Mormon merchants had been too long dallying. To thoroughly understand this shrewd venture of the southern city it is necessary to take a brief retrospect.

As stated, the tendency of the prevailing instructions as to trading with outsiders was having the most serious effect upon that class of commercial men throughout the Territory. Their stores were nearly deserted by customers, who passed them by on their way to Mormon business houses next door. Even where Mormons and Gentiles were in partnership the ban was still maintained. In the list of persons coming within the latter category was Samuel S. Jones, of Provo, who, having bought out the mercantile business of Messrs. Joseph Birch and Lewis Robison, and effected a partnership

* It was on business connected with this institution that Franklin B. Woolley was in California at the time of his tragic and lamentable death, narrated in a former chapter.

with Ben. Bachman, Esq., a Jew, was prepared to contest with Peter Stubbs, and Kimball & Lawrence,—whose Provo establishment dates from early in 1868,—the honor of being the leading business house of Southern Utah. But the teachings of the October Conference at Salt Lake wrought a great change in affairs. Mr. Jones' orthodoxy was beyond question, but Mr. Bachman, however popular he may have been in other respects, stood outside the pale and was made the unwitting obstacle to turn trade from his own and his partner's door. Noting these effects, and conscious that there could be but one result, and that not long deferred, Mr. Jones' active mind was quickly turned in the direction of the destined system of co-operation, and he felt that in his own case, and indeed in the case of all save the dealers who were profiting by the monopoly, the quicker the change was made the better. He plumply said so to a companion—Elder David John—with whom he was returning from a Sunday school meeting one evening late in autumn, and the two agreed to lay the matter of an immediate organization before President Smoot next day. The appointed meeting was held, others followed it, and at one of them, held December 4th, 1868, the matter was definitely acted upon and a preliminary organization effected. Besides President Smoot, the speakers who advocated the measure were S. S. Jones, Peter Stubbs, David John, Myron Tanner, E. F. Sheets—who had been one of the attendants at the Salt Lake meeting in October and had afterwards spoken and labored earnestly for the cause—and some others. The subscriptions at the meeting amounted to nearly \$5,000, and the prevailing opinion was that business should begin early in the spring. Other meetings of the stockholders and temporary officers were held, and during the month additional stock to the amount of \$12,000 was subscribed. On January 5th, 1869, it was resolved in a meeting of the directors that the company's name should be the "Provo Co-operative Institution," and a committee on by-laws was appointed. Then came a meeting of shareholders on the 8th of February, which was also attended by President Young, Apostles Richards, Cannon and Smith, Henry W. Lawrence and



Engr. by E. W. Washburn & Co.

A. S. Jones

others from Salt Lake City. The election of officers was proceeded with and the following were chosen: A. O. Smoot, president; Myron Tanner, vice-president; E. F. Sheets, A. F. Macdonald, A. H. Scott, S. S. Jones, and G. G. Bywater, directors; L. John Nuttall, secretary, and Isaac Bullock, treasurer. President Young's warm encouragement of the project found expression in counsels to the effect that the new institution should obtain its goods directly from the East and undersell the Salt Lake merchants, who if they felt themselves injured had no one to blame but themselves, since they had had the opportunity of retaining the trade and had deliberately refused it. Herein was a plain hint as to what might be expected if they still proved dilatory or unfavorable. He proved his faith by his works in offering to subscribe for five thousand dollars in stock, an example followed by Mr. Lawrence, who in proposing to turn over to the new company the large stock and new store of Kimball & Lawrence, expressed his willingness to take \$3,000 in stock. Mr. Lawrence's offer was unanimously accepted, and as soon as the goods could be invoiced the transfer was effected and co-operation was fairly under way. Editor Cannon on his return to Salt Lake complacently expressed the general view when he said in the *Deseret News*: "Provo has set an example which Salt Lake City need not be ashamed to imitate." Richard R. Hopkins, who had been in charge of Kimball & Lawrence's establishment, was appointed superintendent of the institution, and S. S. Jones, whose urgent zeal, as seen, had brought to Provo the honor of inaugurating real operations under the system, was placed in charge of the "West Co-op." branch in that city.

But while to Provo belongs the credit of beginning co-operation on a scale of magnitude and with the design of dealing directly with eastern houses and supplying at wholesale rates smaller institutions at home, it must not be supposed that the instructions of the last few months had been wasted upon the people in the outside settlements, where means was limited and where the only hope of mercantile success was in the combination of resources. Co-operation,

indeed, had become a word to conjure with. There was talk of co-operative silk industries, co-operative railway contract companies, co-operative saw mills and dairies, co-operative relief society stores, etc., etc. The smaller villages, and the several wards in the larger cities, set about organizing companies after the pattern set by the Salt Lake parent organization in October, 1868, and were preparing to begin early operations. Indeed when Bishop Sheets and Mr. Jones started out through the southern counties in the interest of co-operation in general and the Provo institution in particular, they found a prosperous "Farmers' Co-operative Store" in operation at Spanish Fork, under the management of James Miller, and a "People's Co-operative Store" at Spring City, Sanpete County, under the able superintendence of George Brough. Of even earlier date was the establishment of a "People's Co-operative Store" at Lehi, which during the first six months paid its stockholders a dividend of twenty per cent.

The real impetus given the movement, however, was through the prompt action of Provo, whose institution proposed to be thoroughly independent of the Salt Lake merchants and purchase directly from the East. Before this could be done, however, the parent institution had begun operations and the Provo stores were merged into the general Territorial system. Two or three days after President Young's return to "the city" he called the directors of the duly organized but still inoperative company together and presented the grim but forcible alternative that if Salt Lake did not at once move forward the southern city would reap all the benefits and become the headquarters of the new system. Such talk had its effect. Opposition from Mormon sources vanished, and the offers of local merchants to turn over goods to the company flooded in upon the committee appointed to attend to the matter faster than they could dispose of them. This committee, consisting of H. B. Clawson, Henry W. Naisbitt and John Needham, made a report of the offers received, and were instructed to continue their labors, "to purchase such stocks of goods or any part thereof as they might deem



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suitable, also to rent suitable buildings for stores and forthwith start the wholesale business, calling to their aid such assistants, clerks, and other help as they might need, and make a report of their proceedings from time to time as the Board might require." The institution called itself at this time "Zion's Wholesale Co-operative Institution," and it was also referred to as the "Parent Co-operative Store." Later in February, Secretary Clayton gave notice through the *News* that the wholesale store would soon be ready for business, his advertisement being headed by the afterwards familiar motto and title: "Holiness to the Lord—Zion's Co-operative Mercantile Institution." The delay that had marked the earlier steps of the organization's career had now given way to the utmost celerity, and at nine o'clock on Monday morning, March 1st, 1869, the doors of one branch of the wholesale store were opened in Jennings' Eagle Emporium. Ten days later another branch was opened in the Old Constitution Building, supplanting Eldredge & Clawson, the junior partner of that firm, Hiram B. Clawson, becoming general superintendent. On the 21st of April the retail department was opened in the building formerly occupied by Ransohoff & Company. The great institution was now fairly inaugurated, and supported by the prestige and intelligence of the leading business men,—whose loyalty and magnanimity were loudly praised from pulpit and sanctum,—and by the sympathy and interest of the entire community, its prospects were indeed promising.

By the end of March the institution had on its shelves or in its warehouses goods representing \$450,000, a showing so formidable that Mr. Naisbitt, who went east as purchasing agent, was able to calm all doubts as to the success of the co-operative movement, and obtain such favors as were needed. Of course some breakers were encountered by the young institution. The large stocks of goods that had come into its possession had been received at prices which the advent of the railroad with its reduced rates of freight and speed in transportation rendered simply preposterous. In the one staple of sugar, for instance, the price dropped over a hundred per

cent; and the reduction in the old Missouri River rate, which had ranged from fifteen to twenty-five dollars per hundred, represented proportionate differences in the prices of all classes of merchandise. Moreover, much of the stock purchased from the local dealers was old, culled and well-nigh unsaleable, and yet had to be taken in with the rest, all being received from the weighing scales at a definite rate of freight plus the invoice cost. In the case of Jennings, Eldredge & Clawson, and Ransohoff & Company this was done in order to secure the premises. It was a terrible strain upon the energies of the institution; but it went through the ordeal bravely, giving the most eloquent proof of its endurance and vitality.

Nor was its experience during the national panic of 1873 less satisfactory. True, it was severely shaken, but what institution, great or small, in all the land escaped the effects of that disastrous period! General Clawson, who had acted as superintendent from the opening of business up to that time, and General H. S. Eldredge, who from one of the original directors had been promoted in April, 1873, to the presidency of the institution, made a personal visit to the East in this emergency and met with a favorable response to all their requests for extensions and accommodations. President Young resumed the presidency at General Eldredge's departure and retained the office until his death in 1877. The veteran Captain Hooper assumed practical charge as superintendent, filling that office for a year and a half, during which time the institution fully recovered itself, and he was in turn succeeded by General Clawson, whose second term ended in October, 1876.

The successes of the institution cannot be briefly told. The necessity for branch establishments in other parts of the Territory was apparent from the first, and the purchase of the stock of D. H. Peery & Co., and Farr & Co. of Ogden, in 1869, formed at that early date the nucleus of the powerful establishment in the Junction City which, under the successive management of David H. Peery, S. P. Teasdel, Robert S. Watson, Septimus W. Sears and lastly John Watson, has reached the position of magnitude and importance that it now

occupies. Co-operative partnership was already in vogue at Logan, the natural source of supply for the rich valleys surrounding it; and the transition to Z. C. M. I. was rapid and easy. Under Moses Thatcher, the first superintendent, and his successors, Messrs. Robert S. Watson, Aaron F. Farr, William Sanders and Isaac Smith, the Logan branch has been of great advantage to that section of country. At Soda Springs, Idaho, a point concerning whose future Captain Hooper was ever sanguine, another branch was established and operated for several years, but it was subsequently merged into the co-operative branch at Eagle Rock, or Idaho Falls. The advantages of Provo as a southern supply and distributing point, especially for heavy goods, made the establishment of a large wholesale warehouse there a necessity. The city which aspired to take away the parent institution from Salt Lake has proved that President Young's promises might have been fulfilled.

Pressing as was the demand for the branch houses mentioned, it was at once supplemented by the conclusion that the institution, so independent in other respects, must cease parading in rented quarters, and must own the premises that it occupied. In 1873 this view found practical adoption in the beginning of work upon the present home of the institution. The directors were not unconscious of the danger of diffusing their energies too widely, nor of the perils that menaced themselves as well as every other mercantile house in the country during that calamitous year. Nevertheless, they went courageously forward. The success of co-operation was not to be retarded by adversities and menaces that caused older and apparently stronger institutions to stand still in dread expectancy of impending disaster. The excavation for a mammoth building on East Temple Street, fifty feet front by three hundred and eighteen in depth, proved the faith of its founders that Z. C. M. I. had "come to stay." And indeed the result justified the confidence that its officers displayed. By April, 1875, when the institution welcomed its patrons to its new home,—a massive structure of three stories and basement, constructed of stone brick and iron,—it had passed

through all the whirlpools and narrows and was riding serenely upon the smooth sea of assured prosperity. An extension of fifty feet frontage, doubling the capacity of the building, was soon found necessary, and its twelve thousand square feet of store-room still revealed no vacant space. More recently another extension of the main front, a broad, roomy one-story building devoted to the clothing and boot and shoe departments, has relieved the overcharged main building; while a splendid four-story factory on South Temple Street, with fifty feet frontage by one hundred and sixty-five feet depth, connecting with the main store, furnishes accommodation for the hands and machinery whose daily product is five hundred pairs of boots and shoes and fifty dozen overalls. Besides this the institution has from the first owned and operated a drug department in a two-story building, lower down East Temple Street.

A glance at the list of officers who have served the institution since its inception is sufficient to show that nothing that human sagacity and character could furnish would be wanting to its success. Brigham Young's long term of presidency, lasting, with six months' intermission, from 1868 till his death in 1877, has been mentioned, as has also the incumbency of General Eldredge during the summer of 1873. This same gentleman, who was from the beginning a bulwark of strength to the institution, was its vice-president from January, 1886, to his death in September, 1888, and superintendent during two long terms—from October, 1876, to February, 1881, and from June, 1883, to the time of his death. Captain Hooper's term as superintendent during the critical time following the panic of 1873 has already been noted. He succeeded Brigham Young as president of the institution, and like him was retained in office until his death, which occurred at the close of 1882. William Jennings, the third of this eminent mercantile trio,—in many respects the most remarkable of the three and undoubtedly the man whose favor contributed most to the success of the institution in the beginning, was vice-president from November, 1873, to May, 1875, and from October, 1877, to the date of his death, January 15th, 1886; serving also as



Your truly
W. H. Rowe

superintendent from February, 1881, to May, 1883. President John Taylor was elected to the presidency in April, 1883, following the death of Captain Hooper, and held the office until his death in July, 1887, being succeeded in the following October by President Wilford Woodruff. The institution's first vice-president was Hon. John M. Bernhisel, whose term of service extended from 1868 to October, 1873. He was succeeded by Theodore McKean whose first term of only a month was followed in June, 1875, by a second lasting two and a half years. The present incumbent is Hon. Moses Thatcher, elected in 1888 to succeed General Eldredge. He has always been a staunch supporter of Z. C. M. I. and during many years has been prominent as a member of the board and of the executive committee. Prior to April, 1875, the offices of secretary and treasurer were distinct, and the incumbents of the first-named were William Clayton from March, 1869, to October, 1871, and Thomas G. Webber, from October, 1871, to April, 1875; the respective treasurers during the same period being David O. Calder from the beginning in 1868 to October, 1871; Thomas Williams from the latter date to his death in July, 1874, and John Clark from that time until April, 1875, when the offices were combined, with T. G. Webber as joint secretary and treasurer. Colonel Webber was relieved in October, 1876, to go abroad, and David O. Calder assumed the dual position for two years, when Mr. Webber was again elected, and held the office until October, 1889, when, having the year before been elected superintendent in place of General Eldredge, he was relieved of the duties of treasurer, these being assumed by August W. Carlson. The double and responsible duties of superintendent and secretary Colonel Webber still performs; with the efficient aid of William H. Rowe as assistant superintendent, and as manager of the factory department, one of the most admirably successful and best conducted branches of the whole institution.

The thread of succession has hurried us along far in advance of the rest of the narrative, but the further personnel of the institution is too interesting a theme to be passed without a word. It has been

seen how valiantly such mercantile victors as Jennings, Hooper, Eldredge, Clawson and others, and such adept and versatile calculators as Calder, Webber, Clark and Williams, battled for the success and supremacy that the institution has won. But in other departments than office and cabinet it has been befriended and aided by the best ability that the Territory possessed. The first advertisement published by the young institution mentioned with pride the fact that "the services of such well-known salesmen as H. S. Beatie, John Clark and James Phillips had been secured." Henry W. Naisbitt, the first purchasing agent to represent the institution in the Eastern market—an honor that carried with it many difficulties and responsibilities—has been in almost continuous service ever since in one department or another, and his cogent logic and facile pen have frequently enriched cotemporaneous literature with articles upon the subject of co-operation. Spencer Clawson was for many years resident purchasing agent in New York. Robert S. Watson has held the same office, varying its duties with those of superintendent at Ogden and Logan. Quick and thorough in mercantile affairs S. W. Sears gave early and earnest service and achieved high honors. As superintendent of the Ogden branch, and afterwards as assistant to General Eldredge in the parent institution he efficiently aided and was much esteemed by that sagacious veteran. Of earlier and more prominent salesmen and heads of departments, Messrs. Beatie, Clark and Phillips have been named; others were John Needham, Nelson A. Empey, George Teasdale, who was the first superintendent of the produce department; S. P. Teasdel, George E. Bourne, Thomas V. Williams, Henry P. Richards, David Candland, Andrew McFarlane, A. B. Benzon, Robert Cleghorn, George A. Alder, Stephen Crompton, Fred C. Anderson, William Eddington, John Sears, Edwin Dowden, James Saville, John Henry Smith, who was an early warehouse man; Heber Young and C. G. Rose, superintendents at Soda Springs; Aaron F. Farr, William Sanders and Isaac Smith at Logan; Joseph A. Smith at Idaho Falls; John Watson, D. H. Peery and W. W. Burton at Ogdon; C. D. Glazier at Provo; D. J.

Taylor and Charles Brown, two bright young men who died in New York while on business for the house; and among the bookkeepers were Arthur Pratt, H. B. Clawson, Jr., G. H. Snell, Ernest I. Young, W. J. Beatie, A. W. Carlson, the present treasurer, and a host of others.

That the institution has met with success in a commercial sense equal to the brightest hopes of its founders will not be disputed when it is stated that during its twenty-one years' existence, including the year 1891, its sales aggregated the enormous sum of \$69,146,881.06, and that up to the 5th of May, 1892, it had paid in cash and stock dividends \$2,059,874.07. The ordinary mind is amazed at the immensity of the business represented by these figures, and few are the commercial intellects that do not see cause in such a showing for the liveliest interest. From the doubtful experiment of 1868, co-operation in two decades has evolved by the stern logic of facts into a stupendous fabric whose foundation cannot be shaken and whose superstructure is fair and inviting. It has subserved to a marked degree the more important ends which called it forth, and has always stood as a rampart between the people and commercial oppression. Strong enough to control or at least regulate the market, it has kept prices low, and in the case of a scarcity in certain commodities, where more grasping corporations were inclined to levy extortionate profit, it has resolutely stood as the consumer's friend. Moreover it never has been deaf to the petitions of the struggling home-manufacturer. The products of Utah artisans and factories have always been found in stock, and, where quality and price justified, have been consistently pushed into popularity by the vast influence that Z. C. M. I. could wield. Its own mammoth factory—a monument, in a large measure, to the genius and resource of Assistant Superintendent Rowe, who also conducted for several years the Z. C. M. I. Tannery—is the result of the policy of encouragement alluded to, and it is fair to assume that success in the one experiment will lead to other ventures in the manufacturing line quite as important to the business welfare of the

Territory. This in fact was President Young's main idea in the establishment of the institution.

To the charge that Z. C. M. I. has itself developed monopolistic tendencies, having assumed many of the characteristics of a close corporation, little space need be devoted. It is true that a large proportion of the stock has been concentrated in a few hands, and that the original idea of having all the people shareholders has in a certain sense been defeated. But it must be remembered that other co-operative concerns in the wards of the chief county and in the settlements and cities of other counties of Utah and elsewhere have given the people opportunities for investment nearer home and more closely identified with themselves. At present the main institution has about five hundred stockholders. The co-operative idea, too, has found development in other than mercantile channels, and there is scarcely a section of the Territory where there are not vast industries built and operated upon this principle. For a time it justified the fears of the non-Mormon merchants, who expected to see it absorb the business of the community; for though there were many Mormon dealers who did not merge their stock and interests with it, they nevertheless hoisted its escutcheon, "Holiness to the Lord" and the "All-Seeing Eye," over their doors. Those were trying days for such as had never joined the Church, and those, like the Walker Brothers, who had left it; but there was some balm for them in the thought that Mormon exclusiveness was now a thing of the past, and that under the vigorous measures which the Government was about to enforce, the City and Territory of the Saints would speedily receive the population and prosperity that their location warranted. Their prognostications were not long unverified; Z. C. M. I. in a short time had ceased to be a menace, and in the abundance of patronage that flowed to all honorable dealers, the institution came to be esteemed by them as a mighty but a just and respected competitor.

The general awakening that resulted from the near approach and arrival of the railway was not only noticeable in commerce and



John Needham
Born April 1st 1819



mining, but also in educational matters. The University of Deseret, as we have seen, had been incorporated by the General Assembly of the State of Deseret early in the year 1850, which act, among others of the provisional government, was subsequently legalized by the Legislative Assembly of the Territory of Utah. The early efforts of the University have been alluded to in a previous volume. The school, owing to lack of funds and the immature condition of the Territory's finances generally, was soon discontinued, and entered upon a long period of helpless inactivity, during which it maintained only a nominal existence: Late in 1867 it took on a new and permanent lease of life, and on the 2nd of December again opened its doors to students. Professor Albert Carrington, who had just retired from the sanctum of the *Deseret News*, was now Chancellor, and associated with him as regents were such men as Robert L. Campbell, Henry I. Doremus, David O. Calder and others. On the 27th of November the Board of Regents met to consider "measures for the formation of classes to study the various sciences and departments of literature now forcing themselves imperatively upon the attention of the friends of education in the Territory." The meeting was also attended by President Young, his Counselors and some of the resident Apostles, and the important subject of education was freely discussed. It was decided to open the mercantile department, "in that commodious and convenient building known as the Council House," the chair being tendered to and accepted by Professor D. O. Calder. It was also decided to open a department in English literature, the professorship of which was given to George J. Taylor, Esq.

But it was not only as a commercial and literary school that the institution put forth this renewed life. While under the direction of the chancellor and regents, it was prominently asserted that theology was to receive due treatment, and, indeed, from the "living oracles of God." President Young presided at the initial meeting, made the introductory remarks and offered the opening prayer. He was followed by his counselors, and then by Chancellor Carrington

and Professor Calder. In a very short time, however, the "School of the Prophets"—such was the title of the theological department, which was virtually a revival of the Kirtland organization of that name—with President Young at its head, became a separate institution, holding its sessions first in the upper west room of the City Hall, and afterwards, when the membership (which was by card) became more numerous, in the old Tabernacle.

The commercial department appears to have enjoyed a successful season; and in the autumn of 1868—the eventful year which witnessed the establishment of Z. C. M. I., and the rapid advance of the locomotive upon our borders—Professor Calder again presented to the public his process of business education. The favor with which his proposal was received was an apt token of the commercial bent of the popular mind at that period; and when the school opened on the 31st of October, it was supplied with a college currency, goods, samples and all the miniature adjuncts of practical commerce, as well as a full array of pupils.

A petition of Chancellor Carrington and the Board of Regents, presented to the Legislature early in 1868 asked for the University the appropriation of \$10,000; and to the next Legislature, convened in January, 1869, Professor Calder as chancellor *pro tem.*—Professor Carrington then being in England as president of the European mission—reported "that the sum of \$4,898.26 of last year's appropriation had been expended in printing 'First and Second Readers,' and that other works were in hand and nearly completed." The books referred to were printed in what was known as the Deseret Alphabet, a series of characters whose awkward appearance and lack of legibility constituted the only objection to them in the minds of friends of spelling reform. The idea of phonetic spelling, so persistently urged by its great apostle, the eminent Pitman, found early favor with Brigham Young and the Mormon people, and in 1853 the new alphabet had been adopted by the authorities of the University. A community made up of so many tongues and nationalities, each desirous of learning to read, write and pronounce



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Williamson

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correctly the English, was believed to offer the most inviting field for the inauguration of the reforms in spelling which even to this day engage the minds of many popular educators. To this belief is due the invention of the Deseret Alphabet—a system in which each sound of the various vowels and consonants was represented by a fixed character. The alphabet thus arranged consisted of thirty-eight letters, and at a very early date matrices for the types were imported under President Young's direction and a quantity of type was cast. But the matrices and type were clumsily and rudely made and the lack of beauty and plainness in the characters kept the reform in abeyance. Finally, late in 1867, it was decided by the Board of Regents of the University to adopt the Pitman alphabet, consisting of forty-three letters, and thus gain the benefit of such books as had already been published. Within a year, as noted, Chancellor Calder reported the publication of the First and Second Readers designed for use in the schools of Utah, the work having been done in New York under his direction. A committee on revision, consisting of Apostle Orson Pratt, George D. Watt and Robert L. Campbell, Esqs., all of whom were enthusiastic for the reform and had been engaged in preparing the matter for the two readers, was appointed by the Board of Regents to attend to the distribution of these works and proceed with further publications. For a time much interest was manifested by those who favored the new departure, and, of course, a corresponding amount of ridicule was encountered; but the new alphabet gradually fell into disuse and in a few years was only referred to as a curiosity. Professor Pratt's unflagging zeal for the reform exhibited itself in the translation of the Book of Mormon into the new characters, to which, as well as to all the labor of proof-reading and personal supervision of publication, he gave the most unremitting attention, being assisted through it all by Mr. Campbell, who was no less earnest and zealous than himself. We here present as an object of interest the characters composing the Deseret Alphabet:

8 0 2 8 0 4 2 7 4 6 8 0 2 7.

| <i>Long Sounds.</i> | | | Letter. | Name. | Sound. |
|-----------------------------------|-----------------|----------|---------|-----------------------|--------|
| | | | 7 | ...p | |
| ð | ...e...as in... | eat. | 8 | ...b | |
| ɛ | ...a | " ate. | 7 | ...t | |
| ə | ...ah | " art. | 0 | ...d | |
| θ | ...aw | " aught. | C | ...che as in cheese. | |
| O | ...o | " oat. | 9 | ...g | |
| 0 | ...oo | " ooze. | 0 | ...k | |
| <i>Short Sounds of the above.</i> | | | 0 | ...ga...as in...gate. | |
| † |as in..... | it. | ρ | ...f | |
| ↓ | " | et. | 3 | ...v | |
| ↓ | " | at. | L | ...eth...as in thigh. | |
| ↘ | " | ot. | 8 | ...the " thy | |
| 7 | " | ut. | 8 | ...s | |
| 9 | " | book. | 6 | ...z | |
| <i>Double Sounds.</i> | | | D | ...esh...as in flesh. | |
| J | ...i...as in... | ice. | S | ...zhe " vision. | |
| θ | ...ow | " owl. | ϕ | ...ur " burn. | |
| Ψ | ...ye | | l | ...l | |
| W | ...woo | | 3 | ...m | |
| ʃ | ...h | | 4 | ...n | |
| | | | W | ...eng.as in length. | |

With the coming of the railway, the opening of Z. C. M. I., and the general impetus given to all kinds of business, Professor Calder's energies were soon called in other directions than that of the school room. He had given the University a fresh start, and had witnessed a revival of interest in the subject of advanced education on the part of the whole community. Henceforth there was no reason to fear that the institution would lead a slumbering or an unhonored existence. General D. H. Wells was elected chancellor, and changes in the board of regents infused new blood and inspired a progressive movement in the management.

Fortunately, too, the man was at hand to stand at the head of

the faculty and place the institution at once in the van of all the educational establishments in the mountains. Dr. John R. Park, a native of Ohio, was secured for principal and on the 8th of March the University, now thoroughly reorganized and conforming more nearly to the requirements implied by its name, began operations under his direction. Of this gentleman, now recognized as one of the foremost educators in the West, it is but just to make more than a passing mention. His coming to Utah is associated with circumstances that might almost be called romantic. Impelled by the fever that drew so many adventurous spirits into the mining regions of the Rocky Mountains, he found himself early in the "sixties" a weary Colorado prospector on whom fortune had so far failed to smile. Moving still toward the setting sun he finally crossed over the range into the Great Basin and in the peaceful rural settlement of Draper, then better known as South Willow Creek, in Salt Lake County, he accepted employment as a farm hand. The good people of Draper were somewhat proud of their village school and on "examination days" and other special occasions during the winter season the adults were almost as numerous in their attendance and as interested in the proceedings as the juveniles. The stranger was invited to visit the school at such times, and gradually it came to be known by his conversation and a lecture or two that he was induced to deliver, that he was an educated man, with a rare gift for imparting information to others. He was solicited to take the mastership of the school, and did so. Soon the fame of the Willow Creek school began to spread through Salt Lake and the adjoining counties. Robert L. Campbell, who was territorial superintendent of common schools, was not long in discovering the talent which needed only opportunity for its full development, and Editor Cannon of the *News*, from personal observation and otherwise, united with him in the belief that the man for the hour had been found. Their colleagues of the board of regents listened readily to their suggestion to that effect and promptly acted upon it. Dr. Park parted from his friends and pupils at Draper, and entered upon the larger and

more important field opened before him. We will be pardoned for anticipating the general narrative at this point to say that during the twenty-three years of his connection with the University—continuous save for a brief absence in Europe—he has become so thoroughly identified with it and it with him that to the old pupils the union seems well-nigh indissoluble. Never was institution served more faithfully, and never did instructor enjoy to a greater degree the love and esteem of his pupils than Dr. John R. Park.

The spirit of progress which grew out of a closer union and a better acquaintance with the outside world was quick to make itself manifest in other ways than those already noticed. The new era in commerce and education has already been mentioned; also the lusty birth of the mining movement. The manufacture of iron in Southern Utah had been shown to be practicable, and a Mr. Hayden Smith, in December, 1869, exhibited at Salt Lake City a fine specimen manufactured from ores found on the Weber in Morgan County. Cotton and woolen mills were already in operation in various parts of the Territory, and others were now projected. The Coalville and Echo Railway in Summit County, for which the first ground was broken October 20th, 1869, was pushed forward during the fall and winter with all speed, and by the time the Utah Central was completed, coal direct from the Weber mines could be laid down at Salt Lake City. Early in November of the year mentioned a dispatch from Corinne, the new town on Bear River, announced the arrival there of a schooner from Stockton, Tooele County, laden with ninety tons of freight, including silver ores, lumber, machinery, etc. This was looked upon as the inauguration of navigation on the Lake; but such hopes were never fully realized. The experiment was soon abandoned. The Deseret Telegraph line was extended northward into Idaho, and south, east and west new connections were made with the capital city. The latter began to take on metropolitan airs rapidly. In January, Edward L. Sloan had compiled and published the first general directory of the city, and on November 24th, street lamps were first used. Carpenters began the erection of the gallery



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John R. Park

1872

in the large Tabernacle late in November, and the summer had witnessed considerable activity on the walls of the Temple. A Territorial fair under the auspices of the Deseret Agricultural and Manufacturing Society was held in October and distributed generous awards to the exhibitors. The display, which was the first for several years, was incomparably superior to anything that the Territory had yet witnessed. The 4th and 24th of July of that year were celebrated in an imposing manner, Associate Justice Hawley, a newly appointed Federal official, delivering the oration on the first-named occasion, and being followed by Hon. John Taylor. A mammoth mass meeting, held on the 7th of October, adopted a memorial to Congress, setting forth the various attempts of Utah to obtain statehood, citing facts from her history, and solemnly and earnestly appealing to "the Senate and House of Representatives for a dispassionate and unprejudiced consideration of our claims for a speedy admission into the Union upon an equal footing with the other States."* The meeting was called to order by Mayor D. H. Wells, and Hon. George A. Smith was elected chairman. The vice-presidents were Hon. Edward Hunter, of Salt Lake City, General Erastus Snow of Washington County, Colonel Peter Maughan of Cache County, General C. C. Rich of Rich County, and Colonel Thomas Callister of Millard County. George Q. Cannon, T. B. H. Stenhouse and George Reynolds were chosen secretaries, and David W. Evans, Edward L. Sloan and Jonathan Grimshaw, reporters. The following committee on memorial was appointed: D. H. Wells, Jeter Clinton, Brigham Young, Jr., David McKenzie of Salt Lake County; Lorenzo Snow, Box Elder County; William H. Dame, Iron County; Francis M. Lyman, Millard County; A. K. Thurber, Utah County; Orson Hyde, Sanpete County; F. D. Richards, Weber County; Hector C. Haight, Davis County; Abram Hatch, Wasatch County; and David P. Kimball, Rich County. During the committee's absence stirring speeches were made by the chairman

* It was to this movement for statehood that President Young referred in his address—already given—at the completion of the Utah Central Railroad.

and others, and when the memorial was presented and read by Secretary Cannon, it was, on motion of Hon. William H. Hooper, unanimously and enthusiastically adopted. But this petition, like all others of a similar character from the people of Utah, met with no response from Congress, which at that time was in the mood, more for taking from Utah all her political rights, than for adding to those that she already possessed.

Following hard upon the completion of the railroad, with the consequent facilities of safe and speedy travel, came to "the valleys of the mountains" party after party of notable citizens of this and other countries, who paused, in their amazement at the vastness of the continent and at the daring enterprise which had smoothed the way for the iron horse, to gaze upon the marvel wrought by the Mormon people in the wilderness. Statesmen and soldiers, lecturers and journalists, Americans and foreigners, are mentioned in the records of that time as having spent a few hours or a few days, as the case might be, in the chief city of the Saints. Some were filled with bitterness and prejudice when they came, and went away more rancorous and vindictive than ever. Others came prepared to receive better impressions, and went away admirers and friends. Still others were by their own actions adjudged hypocrites, "blowing both hot and cold," affecting while here the warmest friendship for the Mormons and when beyond their borders maliciously deriding and villifying them. The railway brought of all kinds, and the inner life of Mormondom was in a fair way to be laid bare. Yet there is no evidence that the majority of Utah's people shrank from the exposure. They had nothing to conceal; and that stout faith of theirs told them that in all the advertising for good and evil they were about to receive, one certain effect would be that they would become better known and therefore, as they believed, more justly judged.

From an early period our most distinguished visitors were drawn largely from the military class. Many of these have already been mentioned. Among others who made a more or less lengthy

visit and looked the country over before the railroad arrived, were General Augur, Commander of the Department of the Platte, and staff, who visited Salt Lake City and the neighborhood in mid-summer of 1868. After the transcontinental connection had been made, General W. S. Hancock, who had been appointed Commander of the Department of the Northwest and was on his way to his headquarters in Montana, stopped a few days with his staff, calling upon President Young, and receiving such marks of distinction from civilians and the post authorities as his high rank and eminent past services to the country made appropriate. This was early in June, 1869, and a few days later, the 15th, Major General P. H. Sheridan and several members of his staff, Generals Boynton, Hopkins and Rucker, paid Salt Lake City a brief visit. In the same company were Hon. B. F. Wade, late President of the U. S. Senate, Roscoe Conkling of New York, Governor Campbell of Wyoming and other distinguished gentlemen, besides a number of ladies. This party had scarcely gone before Congressman Julian of Indiana, who at the previous session of Congress had electrified the country by proposing as a cure for polygamy the extension of the suffrage to the women of Utah, arrived in the Mormon capital with his wife. On the evening of the 19th of June the Congressional committee of ways and means arrived and took up their quarters at the Townsend House. Hon. Samuel Hooper of Massachusetts was chairman of the committee and head of the party. Other members were W. B. Allison of Iowa, H. Maynard of Tennessee, W. D. Kelly of Pennsylvania, Austin Blair of Michigan, S. S. Marshall of Illinois, James Brooks of New York, and others. Hon. Samuel B. Axtell, member of Congress from California, and afterwards Governor of Utah, arrived at the same time. It was nearly midnight before the arrangements of the committee as to future movements were made known, but at that late hour, the decision having been reached that they would leave next evening, Sunday, the 20th, for the West, Captain Croxall's and the Camp Douglas bands turned out and gave the distinguished party a serenade. Chairman Hooper, in answer to

calls from the assembled throng, appeared and made a brief speech, after which Judge Kelley, the same who afterwards became "father of the House of Representatives" and will live to posterity as "Pig-iron" Kelly, made a felicitous response to the calls of the audience. Ex-Secretary Seward who had been one of the party from the East, turned off to Denver and did not reach the Utah capital until a few days later; but, as if to make up for this disappointment, Anna Dickinson, the noted lecturer and woman's rights advocate, with her brother, the Rev. J. Dickinson, who were members of the party until they reached Salt Lake City, allowed it to leave without them. They remained several days and Miss Dickinson presumably collected the information for her unfriendly lecture on the Mormons, delivered after all her other attempts had failed, before a San Francisco audience.

Welcome arrivals about this time, though not of the tourist class, were a large company of immigrants from abroad under Elder Elias Morris—the first to come the entire distance by steam. They reached Ogden on June 25th. The same evening a numerous Chicago party, including Senator Howe of Wisconsin, a number of high officials of the Chicago and Northwestern railroad, Horace White, editor of the *Chicago Tribune*, and others, arrived from the East and after two days' stay continued their journey westward. Ex-Secretary Seward and party, whose stay in Denver had been shortened, were welcomed by a committee of the city council of Salt Lake, consisting of Aldermen Samuel W. Richards and H. W. Lawrence and Councilor Robert T. Burton, and tendered the usual courtesies and hospitalities. The inevitable serenade followed in the evening, at which there were speeches by Governor Seward, Mr. F. W. Seward, Editor Wilson of the *Chicago Evening Journal*, State Senator Fitch of New York, and others, and musical selections by Croxall's band.

The Chicago Commercial Party, with Senator Trumbull and Colonel Bowen at their head, of whose visit we shall have more to say, arrived on the 9th of July and had an interview with President



Elias Morris



Young on the 10th. "Ned Buntline" (Col. E. Z. C. Judson) the lecturer, arrived late in June, addressed to the *Deseret News* on the 30th a poetical compliment entitled "The Traveler's Tribute," and lectured on the 7th of July. On the 24th of that month a Wisconsin party headed by Congressmen B. F. Hopkins and Philetus Sawyer, and including among numerous state officials Hon. Jeremiah Rusk, then bank comptroller, reached Salt Lake City. On Sunday, the 15th of August, Reverend B. F. Whittemore, member of Congress from South Carolina and a minister of the Methodist denomination, held forth in the Tabernacle; and on the 21st the joint Congressional committee on retrenchment, accompanied by a number of invited guests, rolled into town in three special coaches. The committee consisted, on the part of the Senate, of Hon. James W. Patterson of New Hampshire, Hon. Carl Schurz of Missouri, and Hon. Allen G. Thurman of Ohio, and on the part of the House of Hon. M. Welker of Ohio, Hon. J. R. Reading of Pennsylvania, and Hon. Jacob Benton of New Hampshire. The party attended morning and afternoon services in the Tabernacle on Sunday the 22nd, and next day called upon President Young, who showed them over his grounds, giving them a practical illustration of the method of irrigation which had accomplished such wonders in the Territory. On the 25th Senators Richard Yates of Illinois and W. Pitt Kellogg and J. S. Harris of Louisiana, with members of their families and others made a passing call, followed on the 29th by Senator T. W. Tipton and wife, of Nebraska.

A large party of officials of the Union Pacific and Central Pacific railroads, including Oliver Ames, then president of the former company, were in the Territory about the middle of September of this year—1869—one object of their consultation being the removal of the point of junction of their respective roads from the Promontory before winter. It was not until November that this matter was decided by the selection of Ogden. Their presence also gave opportunity for the service of papers on some of the U. P. officials by certain non-Mormon contractors who felt compelled to resort to

the law for a settlement of their claims. Major J. W. Powell, the intrepid explorer, who during the summer had been engaged upon an examination of the Colorado River, completed his labors, amid incredible perils, on the 1st, and reached Salt Lake City on the 14th of September. His course was through Desolation, Coal and Stillwater Canyons to the junction of the Green and Grand Rivers, and from there through Cataract, Narrow, Mound, Monument, Marble, and Grand Canyons to the mouth of the Rio Virgen, where he was furnished supplies and teams by Mormons to make the journey northward to the capital. The gentleman delivered a graphic and interesting lecture on his journey two days after his arrival. Vice-President Colfax and party, returning from the Pacific Coast, arrived here early in October. Their visit will be mentioned more fully a little later. Journalists without number began early in the spring, when the railroad entered the valley, their westward march in search of attractions, and kept the local newspapers filled with "fraternal calls" and "personals."

A visitor who at that time and for some years subsequently attracted as much of the world's attention as any private individual, was the irrepressible George Francis Train. Fresh from a British jail in Ireland, to which his Fenian sympathies had caused him to be temporarily consigned, he came stumping across the country announcing his candidacy for the Presidency in 1872, and taking direct issue with the great majority of his fellow-citizens on almost every conceivable subject. An impromptu ten-minute speech in defense of the Mormons delivered during his New England tour early in 1869, had created a great sensation in his audience and among the newspaper fraternity. It was epigrammatic and bristled with telling points, being in fact a condensation of an able speech delivered in Congress by Delegate Hooper a short time before. On the 30th of August Mr. Train lectured in Salt Lake City on "Doctor, Lawyer and Parson," in which his eccentricities of manner and liveliness of delivery atoned with the audience for the disappointment that otherwise would have been felt with his treatment of the

subject. But the next evening, when he gave a continuation of his theme, he had the audience completely with him, and when he was not being cheered to the echo his words were listened to with breathless interest. He warmly commended the life and labors of Brigham Young and the Mormons, urged them to continue the conflict on the lines marked out, and predicted a glorious future for them and the Territory. He became a fast friend of the community and after leaving Utah was perpetually engaged in controversy with journalists and others on the Mormon question, he being invariably on the side of the Saints.

Another platform friend of this period was Mrs. Augusta N. St. Clair, who with her husband, a companion and a coachman, traveled three thousand miles by rail, one thousand four hundred miles by steamer and stage, and over four thousand miles by private conveyance, through the western States and Territories, collecting materials for her lectures. The journey had been planned by her daughter, Augusta, who, upon the party's arrival at Salt Lake City in November, 1868, was stricken with mountain fever, from which she died on the 23rd of February, 1869. She was a young woman of rare abilities, and although only twenty years of age had lectured over a thousand times during the preceding five years. Her father publicly expressed his gratitude to the Mormon people for generous attentions during her sickness and after her death, and President Young preached the funeral discourse. Mr. St. Clair then continued his journey westward. The bereaved party, which had temporarily separated, presumably on account of the young lady's illness, reunited in California, where Mrs. St. Clair had begun her lecturing tour.* She spoke with eloquence, courage and gratitude of the Saints and was warmly welcomed when, after a tour of the Northwest, she reached Salt Lake City and delivered a farewell lecture on the 22nd of November, 1869.

* Mrs. Charlotte I. Godbe—now Mrs. C. I. Kirby—of Salt Lake City, who was in California during the summer of 1869, in a communication to the *Deseret News* dated August 13th, of that year, bore testimony to the courage and eloquence of Mrs. St. Clair in defending before a San Francisco audience the "Mormon women."

About the time of the establishment of Z. C. M. I. a United States land office was opened in Utah. On the 2nd of December, 1867, Hon. William H. Hooper had introduced into the House of Representatives two bills; one providing for the admission of Deseret into the Union—which measure was never acted upon—and the other providing for the creation of the office of United States Surveyor-General for this Territory. The latter bill became a law on July 16th, 1868. By order of the Secretary of the Interior the office was located at Salt Lake City in the autumn of that year. General John A. Clark, who has before been mentioned, was the first incumbent, arriving in Utah in the early part of November. Previous to the passage of this act, Utah and Colorado were comprised in one surveying district, the chief office of which was at Denver, and at whose head, at this time, was Surveyor-General W. H. Lessig.* To this official Mayor Daniel H. Wells of Salt Lake City had sent, on the 23rd of September, 1867, the declaratory statement, together with the necessary plat, etc., to enter Salt Lake City under the townsite law, which had been enacted during the previous March. Similar action on the part of the mayors of other incorporated cities and of the various country judges in the Territory was strongly urged by the local press, and during the next few months—especially after the establishment of the Utah office—the advertising columns of the Salt Lake papers were filled with declaratory notices of this character. The act creating the office of Surveyor-General for Utah also provided for, and its approval was immediately followed by the extension of the land laws over this Territory; not, however, until the seeds of future disputes had been sown with reference to lands lying along the line of the Pacific Railway. It has been alleged that the Mormon people did not wish the establishment of a surveyor-general's and a land office in this Territory—that they did not want to acknowledge the right of the Government to

* S. R. Fox, the Surveyor-General mentioned in Chapter I, page 25, of this volume, as being among President Lincoln's official appointees for Utah, does not appear to have acted in that capacity in this Territory.

give them titles to their lands—but this statement is thoroughly exploded by all the facts. The people were urgent in their demand for these acts of recognition, and the Legislature in January, 1868, had unanimously adopted and Governor Durkee had approved a memorial to Congress asking for the speedy passage of Delegate Hooper's bill. In the early part of March, 1869, the United States land office for the district of Utah was opened in Salt Lake City, with C. C. Clements as register and L. S. Hills as receiver. The latter, who was a Mormon, was superseded in a few weeks by Giles P. Overton of Pennsylvania, his appointment bearing date of May 3rd, and on the 15th of the same month Mr. Clements gave way to General George R. Maxwell as register. This gentleman, of whom it will be necessary to speak at greater length in subsequent chapters, was a shattered veteran of the Civil War.* He came to the Territory and entered upon his official duties on the 15th of June, and a month later Mr. Clements, whom he had displaced, moved into the Surveyor-General's office, vice General John A. Clark.

Respecting other Federal officials who figured in Utah during this period, a brief statement will here be appropriate. Hon. Amos Reed, the diligent and popular Secretary of the Territory had been succeeded on the 20th of December, 1867, by a friend of his, Edwin Higgins of Michigan, who took the oath of office before Associate Justice Drake on the 23rd of January, 1868. During part of the following spring Mr. Higgins was acting governor, in which capacity he addressed a message to the Legislature at its eighteenth annual session beginning January 11th, 1869. He was succeeded in May, 1869, by S. A. Mann of Nevada, whose commission, dated April 27th, was presented one month later and the oath of office taken before Chief Justice C. C. Wilson. Secretary Mann performed the duties of acting governor from the beginning of 1870,—sending in that capacity a message to the Legislature at its nineteenth annual

* It appears that General Maxwell's name was sent to the Senate as early as April for confirmation as Superintendent of Indian affairs for New Mexico. His Utah appointment was doubtless more to his liking.

session on January 11th,—until the arrival of Governor Durkee's successor, J. Wilson Shaffer, in the latter part of March.*

Mention has already been made of Chief Justice Titus and Associate Justices Thomas J. Drake and Solomon P. McCurdy, as representing the judiciary of the Territory. Judge Drake, having served a full term, had been reappointed March 20th, 1866. Enos D. Hoge was confirmed Associate Justice in the summer of 1868—Judge McCurdy's nomination as Chief Justice being rejected at the same date—and on August 25th he took the oath of office, being assigned by Governor Durkee to the Second Judicial District, with St. George as the place of holding court. For Chief Justice the name of Edward O. Persen of New York, had been sent to the Senate on the 23rd of June, 1868; but later the name of Charles C. Wilson of Illinois, was substituted. The latter reached Salt Lake City on the 10th of September and next day qualified and took his place upon the bench in the Third Judicial District. Within a month after President Grant's inauguration—March 4th, 1869—Judge Drake resigned, and on April 5th a commission to his successor, Obed F. Strickland of Michigan, was issued, the new Justice being assigned, on his arrival, to the First District at Provo. On the 19th of the same month, Cyrus M. Hawley, also of Illinois, was appointed Associate Justice in place of Judge Hoge, removed, and on the 29th of May he took the oath of office. His appointment led to a unique and interesting contest which was not determined until the 16th of September following. Judge Hoge maintained that the President of the United States had no power, according to the Organic Act of the Territory, to displace Territorial judges, except for malfeasance, until the four years' term for which they were appointed had expired, and that Judge Hawley's appointment was therefore invalid and gave him no right to the seat. The

* Governor Durkee's four years' term expired December 21st, 1869. He died at Omaha on his way back to his Wisconsin home. He had had a protracted stay in Utah, and was much esteemed by the people.

case was ably argued on both sides, and was decided in favor of the new appointee.

An official with whom the people of Utah had had a friendly acquaintance for many years was removed from their midst during this period of rapid changes. We refer to General A. L. Chetlain, Assessor of Internal Revenue, who accepted the appointment of U. S. consul at Brussels. The change was one of the first made by President Grant's administration, William Carey, of Illinois, being named for the local office as early as April, 1869. He declined the honor, however, and in May it was tendered to and accepted by Dr. John P. Taggart. An appointment made late in September of this year—1869—smacked slightly of local home rule, though it lacked the spirit of that doctrine. Josiah Hosmer, who had served two years as United States Marshal for Utah, was succeeded by J. Milton Orr, a member of the Salt Lake firm of Nounnan, Orr & Co. He held the office until May, 1870, when Colonel M. T. Patrick arrived and succeeded him. Many of these removals and appointments were prompted by a policy the reverse of friendly, which President Grant, influenced by Vice-President Colfax and others, had been induced to pursue in relation to the Mormon people. Not many months passed after his inauguration before every Federal official in Utah suspected of cherishing friendly feelings for the Saints, was displaced and the offices vacated filled with pronounced anti-Mormons.

A few words, before closing this already lengthy chapter, upon the subject of early non-Mormon churches in Utah. The pioneers in this direction appear to have been the Congregationalists, who, as early as January, 1865, began holding meetings at Salt Lake City; the first non-Mormon religious gatherings that ever convened in the Territory. We except, of course, the meetings of the Morrisites; also those of a sect called Gladdenites, and another termed Josephites,—dissenting Mormon factions.* That the Congregation-

* The Gladdenites—so named for their leader, Gladden Bishop—separated from the Church in 1852, when polygamy was proclaimed as one of its doctrines. Gladden Bishop had several times been a backslider from Mormonism, and as often a returning

alists were the first to enter the field was due to the fact that the Reverend Norman McLeod, who has already figured prominently in these pages, and who, during the month named, arrived here from Denver to begin his duties as Chaplain at Fort Douglas, chanced to be a minister of that denomination. As the local Gentiles had no religious instructor, and the dividing line between them and the Mormons was beginning to be rigidly drawn through the efforts of General Connor and his associates, they rallied around Mr. McLeod, who was a strong anti-Mormon, and solicited him to hold regular Sabbath services in the city as well as at the Fort. He complied with their request, preaching his first sermon at Daft's Hall, the upper floor of Daft's store on Main Street, on the 22nd of January. The use of the hall had been tendered for that purpose by the Young Men's Literary Association, a society organized by the Gentiles in November, 1864, and who rented the place for their meetings at one hundred dollars per month. Mr. McLeod continued preaching at Daft's Hall during most of the year 1865, and it was doubtless to him that the Colfax party listened, when in June of that year, on the evening of the Sabbath that they entered Salt Lake Valley, they attended the Congregational service, as set forth in a previous chapter. In the month of February their church and society had been formally organized; also a Sunday school of which the ill-fated Dr. Robinson was superintendent, and which soon enrolled over a hundred pupils. Independence Hall, built by the Congregational Society, was finished in November, 1865, and the first religious service was held there on the 26th of that month.

prodigal to the parent fold. His right hand man was one Alfred Smith, recently from St. Louis. The Gladdenites were few in number, and in 1853 all or most of them migrated to California. Gladden Bishop afterwards returned to Utah, died and was buried at Salt Lake City. The Morrisites have already been mentioned at length. The Josephites, to whom we have before referred, and will mention again soon, were followers of Joseph Smith—"young Joseph"—eldest son of the murdered Prophet. They were organized as a church at Plano, Illinois, in the year 1860. Three years later they sent missionaries to evangelize the Utah Saints, whom they regarded and still regard as wanderers from the true Mormon faith.

The deed to the land on which the building was situated—a portion of Lot 51, G. S. L. City survey—ran from Samuel J. Lees to John Titus, P. Edward Connor, William Sloan, Charles H. Hempstead, D. Fred. Walker, John W. Kerr, Howard Livingston, Samuel Kahn, J. Mechling, Dr. Griswold and George W. Carleton. The lot cost \$2,500 and the building about \$5,000. Early in 1866 Mr. McLeod left for the east “to raise money and also to represent Gentile interests at Washington.” Whether or not this meant the misrepresenting of Mormon interests at the nation’s capital and elsewhere, according to the fashion of some Christian ministers, who have condescended to such un-Christian methods in order to “raise money” for their evangelical work in Utah, we cannot say. It is a fact, however, that Mr. McLeod heartily hated the Mormons, against whom he turned the full force of his burning eloquence here in their very stronghold, and doubtless did all that he could to their injury in other places. It was during his absence that his friend Dr. Robinson was assassinated, which had the effect—since he attributed that crime to the Mormons—of embittering him still more. The Gentiles, or many of them, viewing this bloody deed as only “the beginning of sorrows” of a like character, about to be visited upon them—a fear that was never realized, for the reason that such a movement was never contemplated—now thought seriously of making an exodus from the Territory, and Mr. McLeod, who was about returning to Utah, was met at Fort Leavenworth by a letter advising him not to do so. He therefore remained in the East, not visiting Salt Lake again until 1873, at which time he began another series of anti-Mormon sermons in Independence Hall. In the interim, however, the work he had inaugurated was left to languish, and for some time, so far as his church was concerned, was absolutely suspended.

Meantime the Episcopal Church, at its first general conference held after the close of the Civil War, had determined to push its evangelical operations farther west, and to constitute a missionary district of the Territories of Montana, Idaho and Utah. It placed in charge of this extensive, if not thickly populated diocese, Rev. Daniel S.

Tuttle, Rector of Zion's Church, Morris, Otsego County, New York, who was ordained a bishop in order to be qualified to preside over the district. His ordination occurred May 1st, 1867, in Trinity Chapel, New York City. Bishop Tuttle at this time was only thirty years of age, but though young and comparatively unknown, was a man of character and ability, whose uprightness, honesty of heart, high sense of justice and humane and generous soul, allied with great natural courage and a robust and athletic frame, specially fitted him for the arduous duties of his responsible calling. Though in manner somewhat brusque—which was only the blunt candor of his fearless and honest nature—he was nevertheless kind-hearted and affable, and wherever he went made many friends. The Mormons loved him because of his fairness and candor. Though stating plainly his points of difference with the Saints, either to them or to others, here and elsewhere, he never condescended to abuse or misrepresent them, but on the contrary took pleasure in testifying of their good traits, their honesty, industry and morality, even while deploring what he considered the errors of their religious faith. In this way he won the hearts of the people of Utah, who highly esteemed him, and when he finally left the Territory, parted from him with unfeigned regret. Mrs. Tuttle, his wife, a most estimable lady, shared with him his kindly feelings for the Saints, and in the reciprocal sentiments thereby awakened.

Bishop Tuttle, having secured the co-operation of two young clergymen, in the persons of the Revs. George W. Foote and Thomas W. Haskins, in April, 1867, just prior to his ordination, sent them ahead of him to "look out the land."* They arrived at Salt Lake City on the 4th of May, and being kindly received, as their letters state, by both Mormons and Gentiles, held the first Episcopal service in Utah in Independence Hall, on Sunday, May 8th. Bishop

*Mr. Tuttle had been selected for the new western diocese in October, 1866, and immediately went to work laying his plans for future operations; but not having quite attained his thirtieth year—the age required in a bishop of the Episcopal Church—he was obliged to wait until May, 1867, for his ordination.

Tuttle soon followed, accompanied by Rev. E. N. Goddard, Mrs. George Foote, Miss Foote—who subsequently became Mrs. A. W. White—and Rev. G. D. B. Miller. The last-named was for many years a familiar figure in these parts, was esteemed by his associates as a faithful and earnest worker for their cause, and by the Mormons as a gentlemanly and fair-minded man. This party reached Salt Lake City on the 2nd of July, having occupied forty-two days in making the journey from New York. Bishop Tuttle held his first service in Independence Hall—which had been leased for a year—on July 7th. At first there were but five communicants, all ladies, namely: Mrs. Fidelia B. Hamilton, Mrs. Augusta Tracy, Mrs. Mary Durant, Mrs. Whitehill and Miss Mary Foster, but the missionary party added four names, and on Sunday, July 11th, the Bishop confirmed eleven. The first child baptized in the church was Catharine C. Miles; the first marriage was that of Mr. Samuel Woodward and Miss Mattie Spencer; and the first burial that of James G. Rogers. St. Mark's School, founded by the Episcopalians, was opened on the 1st of July—one day before Bishop Tuttle's arrival—in an old bowling alley, formerly owned by Dr. Robinson, on the west side of Main Street in the rear of the Walker House. The first day there were registered sixteen pupils, which number was doubled within two weeks. The Episcopal Church also fell heir to the Sunday school organized by Mr. McLeod, as well as to a portion of his congregation. Messrs. Foote and Haskins continued in charge of affairs in Utah, while Bishop Tuttle, accompanied by Mr. Goddard, pushed on by stage to Montana, Mr. Miller having already gone to Idaho to take charge of St. Michael's Church at Boise City. Bishop Tuttle remained in Montana, which was made the headquarters of his diocese, until October, 1869, when he removed to Salt Lake City, where he continued to reside until called to the Episcopate of Missouri. In July, 1870, the corner stone of St. Mark's Cathedral was laid, and in September of the year following that edifice was so far completed as to be occupied for service. Prior to this time St. Mark's Parish had been organized, with Messrs. Hussey and Taggart

as wardens, and Messrs. Tracy, White, Humphreys, Norrell and Moulton as vestrymen. Bishop Tuttle was Rector of the Parish. St. Mark's Hospital—the first institution of the kind established in Utah—was founded in 1872, Rev. R. M. Kirby being one of its principal promoters. Nine years later—to anticipate for a moment—Rowland Hall, a boarding and day school for girls, was established. When Bishop Tuttle left Utah for Missouri in 1886, there were in this jurisdiction of the Episcopacy eleven clergymen, seven church buildings, eight hundred and thirty-six communicants, five schools, seven hundred and sixty-three pupils, one thousand and forty Sunday school children and church property worth twenty thousand dollars. The present head of the diocese—which now comprises Utah and Nevada, and no longer includes Idaho and Montana—is Bishop Abiel Leonard, an amiable and accomplished gentleman, to whose courtesy the author is indebted for most of the foregoing facts in relation to the pioneer work of the Episcopalians in this region.

The Congregationalists resumed operations, as stated, with the return of Reverend Norman McLeod to Salt Lake City in 1872. But the "gospel of hate" is never popular with true Christians, even against Mormonism, and the kind words and peaceful persuasiveness of Bishop Tuttle and his associates of the Episcopal Church, was better calculated to melt hearts and win souls than the fiery phillipics of the Congregational Demosthenes. At the end of the year Mr. McLeod resigned, and services at Independence Hall were again discontinued. A better man for the place vacated was Reverend Walter M. Barrows, a former parishioner of the great Beecher, who arrived from the East on Christmas day of 1873, to take charge of affairs under the auspices of the American Home Missionary Society. Through his exertions the Congregational church and society were reorganized and reincorporated in June and July, 1874. There were then twenty-six church members. The incorporators were Charles H. Hempstead, D. F. Walker, R. H. Robertson, Thomas R. Jones, Frank Tilford, I. O. Dewey, John T. Lynch, O. J. Hollister, Henry C. Goodspeed and Henry S. Greeley.

A few years later the society incorporated Salt Lake Academy, built Hammond Hall, and established a free school in the Tenth Ward of Salt Lake City, out of which school grew the Second Congregational Church. Mr. Barrows was succeeded in 1881 by Reverend Frank T. Lee. The present pastor of the First Congregational Church, Reverend J. Brainerd Thrall, arrived about Christmas time, 1884. He is an active and energetic worker, an able speaker, a fine scholar, courteous, obliging and popular,*

Presbyterian work in Utah dates from the rise of Corinne, early in 1869. But at the capital city no church was established until 1871. In July of that year Reverend Sheldon Jackson, superintendent of Presbyterian work in the Rocky Mountains, visited Utah to survey the situation with a view to beginning operations on a more extended scale, and in the following September Reverend Josiah Welch, the first resident Presbyterian pastor, arrived on the scene of his labors. He preached first in Faust's Hall, a long, narrow apartment originally designed for a hay loft, over a livery stable on Second South Street. In November the First Presbyterian Church of Salt Lake City was organized with ten members. The church building which stands on the corner of Second East and Second South Streets, was begun early in 1874, and dedicated in October of that year. Mr. Welch died while on a visit to friends in the East in 1877, and was succeeded by Dr. R. G. McNiece.

The Methodist Church sent its first missionary to Utah in the spring of 1870. He was the Reverend Gustavus M. Pierce, who arrived at Salt Lake City in May, and held his first service on the 15th of that month in Faust's Hall. A few years later a fine church was erected on Third South Street, near the historic spot where the Mormon Pioneers made their camp on the south fork of City Creek in July, 1847. Neither Mr. Pierce, the pioneer of Methodism in Utah, nor his associate, the Reverend J. P. Lyford, who began

* Independence Hall was sold in January, 1890, for \$50,000, with which means a new and magnificent church edifice has been erected on the corner of First South and Fourth East Streets, Salt Lake City.

operations in Utah County early in the "seventies," were popular with the people. They were too much given to romancing—to use a mild phrase—in other words to exaggerating and misrepresenting matters in Utah, to win the love and respect of her citizens to any great degree. As a sample of the stories told by them in the East to enlist the sympathies and loosen the purse strings of pious people in behalf of the Methodist cause in this Territory, was one related by Mr. Lyford, who made himself the hero of an imaginary situation in which he was represented as preaching at Provo with the Bible in one hand and a revolver in the other, in order to over-awe the Mormons and defend himself against assault. The present pastor of the First Methodist Church is Reverend Thomas Corwin Iliff.

Last but not least in the category of non-Mormon churches established here during the years immediately preceding or following the advent of the railway is that of the Roman Catholics. It was on the 26th of November, 1871, that the church of St. Mary Magdalen was dedicated. The lot upon which this building stands—situated on Second East Street, between South Temple and First South streets, Salt Lake City—had been purchased by Father Kelly not long before. The resident pastor at the time the structure was reared, however, was Reverend P. Walsh. Besides himself there were then but six or eight Catholics composing the local religious body. This was the first organization in Utah, though a Catholic missionary had resided here since 1866. It is stated upon good authority that among those who donated toward the erection of the church of St. Mary Magdalen were Presidents Brigham Young and Daniel H. Wells and other Mormons. In 1873, Father Walsh was recalled to San Francisco, and Father Scanlan, the present Bishop of the diocese of Salt Lake, succeeded him. St. Mary's Academy was founded in May, 1875, and opened for boarders and day scholars in September following. Simultaneously the Hospital of the Holy Cross was established, but did not open in the present building until several years later. All Hallows College was of later institution.

These edifices are all ornaments to the city and a great credit to their projectors. The site of the future Catholic cathedral and Bishop's residence—the latter of which has just been completed—is on East South Temple Street. There dwells Bishop Scanlan, and with him are Fathers Kiely, Trombley, Fitzgerald and Scallan.

So much for the present upon the subject of Utah's non-Mormon churches; a theme upon which the author designs dwelling more fully hereafter. The purpose has been to mention here only the pioneer churches and their early workings. Other denominations, which came later, will all be duly noticed at the proper time and in the proper place.

CHAPTER XIV.

1869-1870.

PRESIDENT GRANT'S ATTITUDE TOWARD UTAH—THE PERSONS CHIEFLY RESPONSIBLE FOR HIS UNFRIENDLINESS TO THE MORMONS—VICE-PRESIDENT COLFAX AND DOCTOR NEWMAN—SENATOR TRUMBULL AND THE CHICAGO COMMERCIAL PARTY—COLFAX'S SECOND VISIT TO SALT LAKE CITY—HE DECLINES ITS PROFFERED HOSPITALITY—THE GODBEITE MOVEMENT—THE TAYLOR-COLFAX DISCUSSION.

ULYSSES S. GRANT was now President of the United States, and Schuyler Colfax was Vice-President. Unlike his predecessors, Presidents Lincoln and Johnson, "the silent man of the White House" was not persuaded that the "let-alone" policy in relation to Utah was the right one to pursue. And now that the South had been conquered, the slavery question settled, and the work of reconstruction practically accomplished with reference to the States that had been in rebellion, the warrior President and the party that he represented, flushed with victory, turned their attention to this Territory, determined to solve, by special legislation and judicial machinery, if possible, and if not, then by the sword, the vexed and vexing Mormon problem; extirpating the practice of polygamy, already associated with slavery and styled by this cutter of Gordian knots, this Alexander of politics—the Republican Party—"the twin relic of barbarism."

That President Grant's attitude toward Utah at this particular period, which was several years before he visited the Territory in person, was largely due to the influence of Vice-President Colfax, is unquestionable. The ex-Speaker of the House of Representatives, while at Salt Lake City in the summer of 1865, had given the Mormons what he considered some very good advice, which they had seen fit to ignore; not because they were ungrateful for his apparent

interest in their behalf, or did not respect his sincerity in offering them such counsel, but simply because they differed from him in opinion as to its quality. This seemed to anger Mr. Colfax, and having, after he became Vice-President, accepted as true an anti-Mormon tale to the effect that Brigham Young in a sermon had said that the President and Vice-President of the United States were drunkards and gamblers, his prejudice in this direction was complete. That his feelings were shared by the chief magistrate, who trusted Colfax implicitly at this time, and of course had his own views also respecting Mormonism, was perhaps nothing more than natural under the circumstances. Again, as we have seen, Vice-President Colfax visited Utah—this time in the fall of 1869—and though apparently as friendly as he was polite and courteous to the few Mormons whom he met, it was evident that his coming was more in the spirit of war than of peace; that there was a hand of iron under the glove of velvet; that resentment rankled in his heart, though naught but honeyed sweetness was permitted to fall from his lips. During this visit he shunned the society of Mormons, declined the proffered hospitality of the city of the Saints, and communicated almost entirely with Gentiles, mostly with anti-Mormons and apostates, who sent him away well charged with animus against the leaders of the Church and with any amount of sensational data with which to assail the eyes and ears of the nation's chief. The latter, being, as is well known, one of those noble because trusting and unsuspecting natures,—such as the cunning Iago found in the too credulous Moor, or the envious Cassius discovered in the patriotic Brutus,—gave credence to what was told him, and did not learn how grossly he had been deceived till he had himself visited the Mormons in their mountain home.

But there were others besides Mr. Colfax who lent their influence in the same direction. Early in July, 1869, there arrived at Salt Lake City a large company of gentlemen representing the commercial and moneyed interests of Chicago, whose object in coming west was to establish and facilitate business relations between the queen city on Lake Michigan and those parts whose trade, now that the Pacific Railway

was completed, would naturally tend thither and be tributary to the growth and prosperity of that since mighty mart, and yet to be mightier metropolis. The railroad pass with which each member of the party was provided bore this caption: "International Commercial relations, China, Japan, Sandwich Islands, Alaska, San Francisco, Sacramento, Salt Lake, Denver, Omaha and the Territories." Included in the company were Hon. Lyman Trumbull, U. S. Senator of Illinois; General R. J. Oglesby, ex-Governor of that State; Hon. N. B. Judd, M. C.; Hons. Isaac N. Arnold and W. S. Hinckley; Reverend Clinton Locke, D. D.; J. Medill, editor of the *Chicago Tribune*; J. M. Richards, president of the Chicago Board of Trade; Messrs. J. L. Hancock, O. S. Hough, J. V. Farwell, J. H. Bowen, F. D. Gray, W. T. Allen, A. Cowles, G. M. Kimbark, E. W. Blatchford, G. S. Bowen, C. G. Hammond, O. Lunt, T. Dent, C. G. Wicker, B. F. Haddock, S. Wait, E. V. Robbins, J. A. Ellison, C. Tobey, J. R. Nichols, E. F. Hollister, E. G. Keith, C. Gossage, J. Stockton, D. W. Whittle, E. G. Squires, a Mr. Mead, and Mr. O. Grant, brother to President Grant. The chairman of the party was Colonel J. H. Bowen, who had charge of the excursion. The distinguished party were warmly welcomed by all classes of citizens, and their visit was regarded as an important event.

On Saturday, July 10th, at 11 a. m., the delegation, headed by Colonel Bowen, called upon President Young. The Colonel, surrounded by the members of his party, addressed the Mormon leader as follows:

President Brigham Young:

We call upon you this morning as members of a representative commercial party from the city of Chicago, who are *en route* upon a visit to San Francisco, the purpose of which is to facilitate commercial relations with localities made tributary by the completion of the Union and Central Pacific railroads.

Esteeming the Territory of Utah one of the important localities, we have come to its capital to greet you and those engaged in commercial transactions in your midst, and to invite co-operation in our efforts.

We also come to congratulate you upon the auspicious and speedy completion of the great national highway, that binds together the distant extremes of our country, that relieves the people of their long and profound isolation and places them and their products within a few days of steam locomotion of the great markets of the Union, thereby

increasing the value of their labor and reducing the cost of their goods, and adding immensely to their wealth and their comforts, and placing them within easy reach of all the social as well as material enjoyments of life.

In passing swiftly through the far-famed Echo and Weber canyons, we were deeply awed and grandly impressed with the majesty of the scenery and filled with wonder at the herculean task accomplished in the building of the railway through and over such seemingly insurmountable obstacles of nature in so incredibly short a space of time. A considerable share of the credit and honor of this achievement properly belongs to you and your people, who rendered hearty, efficient and timely aid to the company charged with the completion of this gigantic national highway, and we hope you will live long to enjoy the fruits of these beneficial labors. You will have further cause of congratulation when the branch road is completed which will connect the capital of Utah with the main line, which work we are glad to learn is rapidly progressing towards completion.

We have examined and scrutinized your wonderful development and the utilization of the barren nature which surrounded you in your early occupation of the valley. It demonstrates what can be reached by skillful industry and well-directed energy, and is worthy of high commendation.

Allow me the pleasure of introducing to you the members of our party, collectively and individually.

President Young thus responded:

Colonel J. H. Bowen, Chairman of the Representative Commercial Party of the City of Chicago, and Gentlemen:

I will briefly say in behalf of my friends here, and on my own part, gentlemen, you are each and all welcome; we are pleased to see you; we sincerely hope you are well and enjoying yourselves and that your excursion to the West will be productive of much benefit to all concerned.

We congratulate you on the energy displayed by the commercial men of Chicago in advancing the business interests of the West, and we accept this as an index of more abundant success in the future. We are with you, heart and hand, in all that promotes the public good.

We thank you for your congratulation and duly appreciate the high estimate which you hold of our labors. It is true we are the pioneers of this western civilization, and that we have to some extent assisted in the development of the resources of the great West. It is true that we have built over 300 miles of the great Pacific Railroad, an enterprise for which, by the way, we memorialized Congress in 1852; but this of the past. Our labors are before the world, they speak for themselves. Our aim is to press onward, diligently to perform the part allotted to us in the great drama of life, and, having ever in view the glory of God and our country, the rights of man and social independence, strive for the maintenance of those glorious principles which compose our Federal Constitution.

Introductions, hand-shakings and conversation ensued, and upwards of an hour was passed very pleasantly.

Said the *Deseret News* editorially that day: "Aside from the business results which may follow the visit of these gentlemen to our city and Territory, there are other important reasons why we should be gratified at their coming. It is a great advantage to our people to be seen at home by such a class of men as comprise this party. They are probably as free from prejudice as any men in the nation, and however much they may differ with us religiously, they can perceive at a glance that we are no common people, and that we possess qualities which entitle us to respect. They are sufficiently cosmopolitan in their views to award us credit for our labors, and they will go away more thoroughly convinced, by personal contact and observation, that we are not the fanatical, bad people they have heard us described to be, than they could possibly be by merely reading about us. Intercourse of this character dissipates prejudice and corrects falsehood, and after the walk last evening from the theater to the hotel, of those gentlemen of the party who remained to see the conclusion of the performance, it would be difficult for sensational and mendacious letter writers to convince them that life is unsafe here, or to cause them to swallow the terrible fabrications about destroying angels, etc."

The *News* was probably not aware that a movement was even then on foot, among leading non-Mormons of Salt Lake City, to cause the Chicago Commercial Party to take away with them an impression vastly different from that which the majority of the citizens desired they should receive, and that this movement was destined to be more or less successful. Before the party left the city they were invited to a banquet at the residence of Joseph R. Walker, Esq., to which were also bidden such guests as General P. E. Connor, Major Hempstead, Mr. Kahn, Judges Hawley and Strickland, Major Overton, Captain Thomas H. Bates, Messrs. O. J. Hollister, R. H. Robertson, John Chislett and many others. Over forty persons were present on the occasion. Champagne flowed freely, as did anti-Mormon sentiment, until the Chicago party were pretty well imbued with the spirit which was soon to become incarnate in what is known

as the Liberal Party of Utah, whose birth was now at hand. The alleged tyranny and treasonableness of the Mormon Priesthood, and the continued disregard of the anti-polygamy law by the Saints, were the staple of comment and conversation at this political banquet and war feast, though "the insecurity to life and property of Gentiles," the opposition of the Mormons to mining, their "monopoly of the public lands," with Brigham Young's great commercial *coup d'etat*, which had culminated in the establishment of Zion's Co-operative Mercantile Institution, and the "freezing out" of the non-Mormon merchants, the Walkers, the Auerbachs, the Kahns, and others, came in for their share of attention. Senator Trumbull related a conversation that he had had with President Young in which the latter, it was claimed, had said something to the effect that if the Federal officials in Utah did not behave themselves, he would have them ridden out of the Territory. Secretary Mann and Chief Justice Wilson, who were not present at the banquet, being on friendly terms with the Saints and consequently on unfriendly terms with their opponents, were also criticised, not to say excoriated, for their pronounced "Jack-Mormonism," and a desire for their removal and the appointment to succeed them of men more in harmony with the feelings of the anti-Mormons was generally expressed. The discussion of these subjects was free and full, and "war talk ran around" till nearly every soul was on fire with anti-Mormon animus—and champagne. From this banquet, it is believed, went forth the inspiration of the so-called Cullom bill, introduced into Congress during the following winter, and which, with its predecessor the Cragin bill, is said to have originated at Salt Lake City. The agitation thus begun also had its effect upon the Administration, and, added to other things, notably Mr. Colfax's representations, determined President Grant upon the prosecution of a vigorous, not to say belligerent policy toward Brigham Young and the Mormons.

Another influential character about the person of the President at this time, was Dr. John P. Newman, chaplain of the United States Senate, and pastor of the Metropolitan Methodist Church at Wash-

ington. This man, as long as Grant lived, exercised great influence over him. Why, we are unable to say; for barring the fact that General Grant, under the sternness of his warlike nature, was not only kind-hearted and generous, as every Christian should be, but genuinely religious, as every Christian is not, whatever the amount of sanctity professed, two men more unlike in nature, and one would naturally suppose in tastes, could hardly have been selected than the "strong, simple, silent" hero of Appomattox, and the vain, voluble, pedantic pastor of the most fashionable church in Washington. Grant seemed to have for Newman, who was his favorite preacher, under whom he sat Sabbath after Sabbath, a great admiration if not a profound friendship, and it was probably owing to the President's regard for him that he became Chaplain of the Senate. Undoubtedly it was due to his great and powerful friend at the White House that the pastor was permitted, a few years after the events here narrated, to go junketing around the world, or at any rate as far as Palestine and the Orient, in the semblance if not the substance of an inspector of United States consulates. When it shall be known why great men are ever prone to allow trucklers and sycophants to enjoy their confidence and flourish on their patronage, while better men are held at a distance, distrusted and even suspected for their candor, and because, while willing to serve, they will not toady to authority, perhaps it will be explained why President Grant and Doctor Newman were so "unequally yoked" in friendship and mutual regard. The law of opposites scarcely explains the mystery. Now, this man Newman was a Mormon-hater, and is believed to have used his influence, both at the Executive Mansion and in the lobbies of the Senate, against the people who for some reason had won his dislike even before he knew them, and whom he cordially hated, with a better reason for his rancor, after becoming acquainted with their great preacher and Hebrew scholar, Orson Pratt, and tasting of his apostolic steel in the famous discussion of August, 1870: "Does the Bible Sanction Polygamy?" There is little doubt that Dr. Newman, quite as much as Vice-

President Colfax, was responsible for the unfriendly feeling which President Grant, until he came to Utah and saw things for himself, entertained toward the founders of the Territory.

Vice-President Colfax was returning from a trip to California when, on the 3rd of October, 1869, he and his party arrived at Salt Lake City. Mr. Colfax was now a married man and was accompanied by his wife; also by Governor Bross and Mr. Bowles, his *compagnons de voyage* on his former journey across the plains, and other distinguished gentlemen with their ladies. As before, the municipal authorities tendered to the Vice-President and his party the hospitalities of the city during their stay, and sent a special committee, consisting of Alderman S. W. Richards and Councilor Theodore McKean, to meet the visitors with coaches at Uintah Station in Weber County and conduct them to Salt Lake. A committee of reception, consisting of Mayor D. H. Wells, Hon. W. H. Hooper, Alderman Jeter Clinton and Marshal J. D. T. McAllister, were appointed to meet the party on their arrival at the Townsend House, where ample arrangements were made for their entertainment. The Vice-President, however, politely declined the proffered hospitality, on the ground that he and his party were traveling in a strictly private capacity. The interview between them and the reception committee, though brief, was cordial and friendly—at least it bore that seeming—but owing to the fatigues of travel and the desire of the visitors that there should be no demonstration in their honor, it terminated after a mutual interchange of verbal courtesies.

But Mr. Colfax, as already stated, did not feel as friendly toward Utah and her people as his polite demeanor on this occasion doubtless led many to infer. This was partly manifested during his stay at Salt Lake City. That his object in again visiting the metropolis of the Saints was to feel the Mormon pulse and survey once more the local situation prior to rendering another and a final report to President Grant and the other heads of the Government,—a report that he knew would powerfully influence the conduct of the Administration and the action of Congress toward the Mormon

people,—is extremely probable. That he occupied the position of arbiter, to decide whether peace or war should be Utah's portion at this period, there is little room to doubt. General Grant, who had hammered to pieces rebellion in the South, was just as ready to hammer it to pieces in Utah or elsewhere, and Colfax, who had probably convinced his chief that the disregard paid by the Saints to the law of Congress and to his own advice respecting polygamy was almost tantamount to treason and resistance to the Government, was the very man to set the hammer working. Yet he was conscientious enough—to his credit be it believed—to desire to take another look at the object which he supposed was about to be shattered, perhaps to forestall any pangs of regret in case it should transpire that he had been too hasty. That he had not quite decided as to which course was the better one to pursue in relation to the Saints,—whether to let the Federal courts, officered and aided by zealous and uncompromising foes to Mormonism, grapple with the problem, or to send armed battalions with such a man as General Sheridan at their head, to force at the point of the bayonet an unconditional surrender from the Mormon leaders,—is evident from a conversation that took place between the Vice-President and Elder T. B. H. Stenhouse, the substance of which we will relate. In order, however, to be better understood, it will be necessary to first sketch the origin of what is known in local history as the “New Movement,” which gave birth to the Liberal or anti-Mormon party.

Reference has already been made to a certain periodical called *The Utah Magazine*, established at Salt Lake City in January, 1868. Its proprietors were William S. Godbe and Elias L. T. Harrison; the former a prosperous merchant, and the latter an architect by profession. Mr. Harrison was the editor of the *Magazine*. Both were prominent Mormons, and men of ability and reputation, respected and esteemed by the community of which they were members. The *Magazine* was at first conducted as a purely literary publication, or if the pen of its editor occasionally touched religious topics, the treatment, though liberal, was of course pro-Mormon in

tone. At that time it had the sanction of the Church authorities. But by and by "a change came o'er the spirit" of the editor and his associate, a change that soon manifested itself in the editorial pages of their periodical. Though not anti-Mormon in spirit, it was evident that the *Magazine* had changed its principles, or at least was putting forth principles which it had not formerly advanced, and that were considered by the leaders of the Church to which its editor and publishers belonged, antagonistic to the spiritual welfare of the people. The fact is, Elders Godbe and Harrison had for some time been losing faith in Mormonism, and though they still loved the Saints and desired to retain the good will of the community in which was bound up all that their traditions and affections held dear, they could not conceal the fact, either from themselves or from those with whom they mingled and conversed, that their confidence in the Book of Mormon, in Joseph Smith and in Brigham Young was shaken, and that the faith for which they had so long and zealously contended was no longer deemed by them divine. Still they did not wish to leave the Church. Mr. Godbe was a polygamist with three wives, and both he and Mr. Harrison, with their households, to whom they were devotedly attached, had numerous friends in the community by whom, as stated, they were held in high esteem. Having, as they claim, prayed for and received divine light to guide them, they resolved to inaugurate, within the Church, a work of reform. This meant that they would oppose Brigham Young and his policies,—the "one man power," and what they considered a too decided leaning toward temporal things on the part of the Priesthood, manifested in such movements as the organization of Z. C. M. I., the building of railroads, and other secular enterprises,—and yet would remain in the Church and labor for the salvation of the people. This feat, it is perhaps needless to say, was as impossible as for one to bestride at the same time two horses moving in diametrically opposite directions. In Mormonism the Priesthood and the people are one, in all that pertains to the general cause, and are not to be so separated. So long as the Saints sustained Brigham

Young as their President, so long was he their leader and guide, and whatever opposed him and his brethren the Apostles, in the discharge of their duties as "shepherds of the flock," opposed those over whom they presided. Elders Godbe and Harrison knew this—they were not neophytes in Mormonism—and probably foresaw that unless their efforts resulted in the overthrow of President Young and his coadjutors—the Priesthood—or the surrender of those leaders to the "New Movement," their own excommunication, unless they retraced their steps, was inevitable. For such an issue they were doubtless prepared, but felt willing to risk all, in the hope of securing, in case they were cut off from the Church, a following from the ranks of the Saints that would form the nucleus of another and a distinct religious society. They trusted, however, to remain within the fold with their families and friends, and work a modification of existing conditions which they considered wrong and would not any longer approve. To a small circle of friends they confided their views and intentions, and from them received sympathy and support. Among these were Elders Eli B. Kelsey, Edward W. Tullidge and Henry W. Lawrence, all Mormons of many years' standing. Messrs. Kelsey, Tullidge and Godbe, as well as Editor Harrison, then began writing for the *Utah Magazine* with the distinct and definite object, as avowed among themselves, of sapping the foundations of the power of Brigham Young.* Though not once mentioning his name, it was perfectly apparent to thinking readers that he was the target at which their literary shafts were aimed. The visit to the Territory, in the summer of 1869, of Alexander and David H. Smith, two of the sons of the murdered Prophet, missionaries of the Reorganized Church of Jesus Christ of Latter-day Saints, from Plano, Illinois—over which church, as previously stated, their brother Joseph presided—gave the "New Movement" men an

Says Stenhouse, their coadjutor, after his defection from Mormonism: "Believing that Brigham had set out to build up a dynasty of his own, and that he, like David the King, looked upon the people as his 'heritage,' these four Elders resolved to sap the foundations of his throne."

opportunity to discharge what they intended should be a telling shot in the direction of President Young. One of the claims put forth by these Josephite Elders—for so were the Elders of the Reorganized Church termed in Utah—was that their brother, “young Joseph,” was the true successor of their father as President of the Church which was once at Nauvoo, and that Brigham Young had no right to lead the people.* The *Utah Magazine*, “under the pretext of advising the young Smiths”—to quote again from Stenhouse—seized the occasion to say, with Brigham Young more than Joseph Smith in mind: “If we know the true feeling of our brethren, it is that they never intend Joseph Smith’s nor any other man’s son to preside over them, simply because of their sonship. The principle of heirship has cursed the world for ages, and with our brethren we expect to fight it, till, with every other relic of tyranny, it is trodden under foot.” The article in which this paragraph appeared was followed by others, which, though true enough in the abstract, and altogether impersonal, still betrayed their animus against the President and set many tongues talking. At last came an article on “The True Development of the Territory,” in which the Saints were advised to turn their attention to mining. As this advice was directly contrary to the counsel of the Church authorities—counsel

* The first Josephite Elders to visit the Territory were E. C. Briggs and Alexander McCord, who arrived at Salt Lake City in the summer of 1863. They visited the houses of a number of disaffected Mormons, and made a few converts, most of whom left Utah and returned to the States. Alexander and David Smith held forth in Independence Hall, the principal public building of the Gentiles at Salt Lake City. Their evangelism, though it created considerable interest among the people, chiefly from the fact that the preachers were sons of the Prophet, whose memory the Utah Saints all revered, was almost without results. Their claims that “young Joseph” was the true successor to the Presidency of the Church founded by his father, and that Brigham Young and not Joseph Smith was the author of the polygamic doctrine practiced by the Utah Mormons but condemned by the Mormons of Plano, were combatted by Apostle Joseph F. Smith, son of the murdered Hyrum, who in a brief series of public discussions with his visiting cousins opposed the Josephite anti-polygamy position, and maintained the right of Brigham Young, who was President of the Twelve Apostles when Joseph and Hyrum Smith were killed, to succeed to the leadership after the dissolution of the original First Presidency.

which had been given for many years, and had not yet been revoked—it was not calculated to promote peace and harmony between the leaders of the Mormon community and the publishers of the *Utah Magazine*. Not long afterward Elder Harrison declined to go upon a mission to which he was called by the voice of the Church, and the irregular attendance of himself and his associates at the School of the Prophets was also noted. Finally he and Elder Godbe were summoned before the High Council of the Stake, and after a full investigation and hearing they were excommunicated. Elders Godbe and Harrison, with their friend Kelsey, were deprived of membership in the Church of Jesus Christ of Latter-day Saints on the 25th of October, 1869, and soon afterward T. B. H. Stenhouse, editor of the *Telegraph*; Henry W. Lawrence, merchant, Bishop's Counselor, and one of the founders of Z. C. M. I.; Edward W. Tullidge, and others who had become disaffected, were dealt with in like manner. These men were all reputable and respected members of the community. Naught against their morality or general uprightness of character was known or advanced. But they had lost faith in Mormonism—outgrown it they claimed—and had determined to oppose the regularly constituted authorities of the Church in the discharge of what they and the people who sustained them deemed their duty. Consequently the Church, though parting from them with regret, was compelled to take action in their cases. The official announcement of the authorities respecting the *Utah Magazine* and the excommunication of its editor and publishers, appeared in the *Deseret News* as follows:

TO THE LATTER-DAY SAINTS.

Our attention has been called of late to several articles which have appeared in the *Utah Magazine*, a weekly periodical published in this city. An examination of them has convinced us that they are erroneous, opposed to the spirit of the gospel and calculated to do injury. According to the practice in the Church, teachers were sent to labor with the editor and publishers, to point out to them the evil results which would follow a persistence in the course they were pursuing. This did not have the desired effect, and they have since been tried before the High Council, and after a thorough and patient investigation of the case it was found they had imbibed the spirit of apostasy to that

degree that they could not any longer be fellowshipped and they were cut off from the Church.

The *Utah Magazine* is a periodical that in its spirit and teachings is directly opposed to the work of God. Instead of building up Zion and uniting the people, its teachings if carried out, would destroy Zion, divide the people asunder, and drive the Holy Priesthood from the earth. Therefore we say to our brethren and sisters in every place, the *Utah Magazine* is not a periodical suitable for circulation among or perusal by them, and should not be sustained by Latter-day Saints.

We hope this will be sufficient without ever having to refer to it again.

Your Brethren,

BRIGHAM YOUNG,
 GEORGE A. SMITH,
 DANIEL H. WELLS,
 ORSON PRATT,
 WILFORD WOODRUFF,
 GEORGE Q. CANNON,
 JOSEPH F. SMITH.

But what was viewed with regret by the Mormons generally—the defection of such men as Godbe, Harrison, Lawrence, Kelsey, Tullidge and others—was hailed with delight by the anti-Mormons; seceders of an earlier period, the majority of the Federal officials, and by all in fact who were at open war with the Church, and who, having first embittered Senator Trumbull and his party against the Saints, had next besieged Vice-President Colfax at the Townsend House and given him the benefit of their views as to the best method of dealing with the Mormon Problem.

It was before the “New Movement”—or, as it was commonly called, the “Godbeite Movement”—took definite form, and about three weeks prior to the excommunication of its leaders by the High Council of the Salt Lake Stake, that the Vice-President made his second visit to the Mormon metropolis. Hearing of the prospective schism,—which had been in process of incubation for several months,—and viewing it as a good omen, he took pains during his stay to communicate with representatives of the “Movement.” Said he to Elder Stenhouse,—as reported by E. W. Tullidge, to whom the editor of the *Telegraph* related his conversation with the Vice-President: “Will Brigham Young fight?” This was equivalent to

saying: "If he will fight we'll soon settle this Mormon question, schism or no schism, courts or no courts; settle it at once and forever with the sword." Stenhouse is said to have replied: "For God's sake, Mr. Colfax, keep the United States off! If the Government interferes and sends troops you will spoil the opportunity and drive the thousands back into the arms of Brigham Young who are ready to rebel against the one-man power. Leave the Mormon Elders alone to solve their own problem. We can do it; the Government cannot. If you give us another Mormon war, we shall heal up the breach, go back into full fellowship with the Church, and stand by the brethren. What else could we do? Our families, friends and life companions are all with the Mormon people. Mr. Colfax, take my word for it, the Mormons will fight the United States if driven to it in defense of their faith, as conscientious religionists always have fought. The Mormons are naturally a loyal people. They only need to be broken off from the influence of Brigham Young. Depend upon it, Mr. Colfax, the Government had better let us alone with this business, simply giving its protection to the 'New Movement' men."

It is claimed by the Godbeites that the arguments thus advanced, with various expressions from their leaders to Federal officials and other anti-Mormons, materially modified the war spirit so prevalent at the time, and that the "New Movement," being in a sense fostered by the Government and favored by many of the most influential journals throughout the land,—one of which, the New York *Herald*, sent a special correspondent in the person of Colonel Finlay Anderson, to keep the readers of that paper informed as to the workings of the so-called "Utah schism,"—became to Mormonism a shield to ward off the wrath then gathering like storm-clouds above and around it, threatening to spend their fury upon its devoted head.

But this, if we except the political movement which sprang from it, was about all that the "Utah Schism" accomplished. The effort to found a new church proved a signal failure. Meetings were held

by the schismatic Elders, beginning on Sunday, December 19th, 1869, in the Thirteenth Ward Assembly Rooms, the use of which was granted them by President Young—as stated by Mr. Tullidge—on the application of Messrs. Godbe and Lawrence, through Bishop Edwin D. Woolley. Many persons, principally non-Mormons in sympathy with the schism, attended, but very few converts were made, and it was not many months from the time of its inception before the “New Movement” waned and faded until it existed only as a memory. After its collapse, its founders, like the ancient disciples, “went back to their nets;” in other words to their secular avocations, which, however, they had not entirely forsaken to engage in the “Movement.” Mr. Godbe continued as a merchant, but also branched out into mining, in which he has won and lost several fortunes; Mr. Harrison followed his profession of architect; Mr. Kelsey devoted his time, during the remainder of his life, to mining and real estate operations, and Mr. Tullidge went on in his literary career, during which he has produced several historical works and a number of plays of much merit. Mr. Lawrence, who is today the most wealthy man among them, occupied his time, like Mr. Godbe, in mercantile pursuits, and has also realized much money from mining. A few of the prominent Godbeites have rejoined the Church, but the principals, Messrs. Godbe and Harrison, who claim to have received light far in advance of Mormonism, have never reunited with the Saints. Mr. Lawrence is a pronounced anti-Mormon, and bids fair to remain so to the end.

Included in this chapter should be the speech of Vice-President Colfax, delivered from the balcony of the Townsend House to the citizens of Salt Lake City on the night of October 5th, 1869. It was as follows:

Fellow Citizens:

I come hither in response to your call to thank the band from Camp Douglas for the serenade with which they have honored me, and to tender my obligations to the thousands before me, for having come from their homes and places of business “to speed the parting guest.”

As I stand before you, tonight, my thoughts go back to the first view I ever had of

Salt Lake City, four years ago last June. After traveling with my companions, Governor Bross and Mr. Bowles, who are with me again, and Mr. Richardson, whose absence we have all regretted, over arid plains, alkali valleys, and barren mountains, day after day, our stage coach emerged from a canyon one morning, and we looked down upon your city covering miles in its area, with its gardens, green with fruit trees and shrubbery, and the Jordan flashing in the sun beyond. And when after stopping at Camp Douglas, which overlooks your city, to salute the flag of our country, and honor the officers and soldiers who keep watch and ward over it at this distant post, we drove down with your common council to the city, and saw its wide streets, and the streams which irrigate your gardens, rippling down all of them in their pebbly beds, I felt indeed that you had a right to regard it as a Palmyra in the desert. Returning now, with my family and friends, from a long journey on the Pacific coast, extending north to where the Columbia River tears its way through the mighty range which bars the way for all other rivers from the British to the Mexican line, we came to your city by the stage route from the railroad, through the fertile region that lines your lake shore, and find it as beautiful and attractive in its affluence of fruits and flowers as when we first visited it.

I am gratified, too, that our present visit occurred at the same time with your Territorial Fair, enabling us to witness your advance in the various branches of industry. I was specially interested in the hours I spent there, yesterday, with some of your leading citizens, in your cotton manufactures from the cotton you raise in Southern Utah, your woolen manufactures, the silk manufacture you have recently inaugurated, your leather and harness, the porcelain, which was new to me, your furniture, your paintings, and pictures, the fancy work of the ladies, and the fruits and vegetables which tell their own story of the fertility of your soil. I rejoice over every indication of progress and self-reliance in all parts of the Union, and hope you may realize, by further development, how wise and beneficial such advancement is to communities like yours, remote from the more thickly settled portions of the Republic.

I have enjoyed the opportunity, also, of visiting your Tabernacle, erected since I was here before, the largest building in which religious services are held on the continent, and of listening to your organ, constructed here, which, in its mammoth size, its volume of sound, and sweetness of tone, would compare favorably with any in the largest cities in the Union. Nor did I feel any the less interest on my present, than on my former visit, in listening to your leading men in their places of worship, as they expounded and defended their faith and practice, because that faith and practice differed so widely from my own. Believing in free speech, as all of us should, I listened attentively, respectfully, and courteously to what failed to convince my mind, and you will doubtless hear me with equal patience, while I tell you frankly wherein we differ.

But first let me say that I have no strictures to utter as to your creed on any really religious question. Our land is a land of civil and religious liberty, and the faith of every man is a matter between himself and God alone. You have as much right to worship the Creator through a president and twelve apostles of your church organization as I have through the ministers and elders and creed of mine. And this right I would defend for you with as much zeal as the right of every other denomination throughout the land. But our country is governed by law, and no assumed revelation justifies any

one in trampling on the law. If it did, every wrong-doer would use that argument to protect himself in his obedience to it. The Constitution declares, in the most emphatic language, that that instrument and the laws made in conformity thereto, shall be the supreme law of the land. Whether liked or disliked, they bind the forty millions of people who are subject to that supreme law. If any one condemns them as unconstitutional, the courts of the United States are open, before which they can test the question. But, till they are decided to be in conflict with the Constitution, they are binding upon you in Utah as they are on me in the District of Columbia, or on the citizens in Idaho and Montana. Let me refer now to the law of 1862, against which you specially complain, and which you denounce Congress for enacting. It is obeyed in the other Territories of the United States, or if disobeyed its violation is punished. It is not obeyed here, and though you often speak of the persecutions to which you were subject in the earlier years of your church, you cannot but acknowledge that the conduct of the government and the people of the United States towards you, in your later years, has been one of toleration, which you could not have realized in any other of the civilized nations of the world.

I do not concede that the institution you have established here, and which is condemned by the law, is a question of religion. But to you who do claim it as such, I reply, that the law you denounce, only re-enacts the original prohibitions of your Book of Mormon, on its 118th page, * and your Book of Doctrine and Covenants, in its chapter on marriage; and these are the inspired records, as you claim them, on which your church was organized.

The Book of Mormon, on the same page, speaks twice of the conduct of David and Solomon, as 'a grosser crime,' and those who follow their practice as 'waxing in iniquity.' The Book of Doctrine and Covenants is the discipline and creed of your church; and in its chapter on marriage it declares, that as the Mormon Church has been charged with the crimes of fornication and polygamy, it is avowed as the law of the church, that a man shall have but one wife, and a woman but one husband, till death shall part them.

I know you claim that a subsequent revelation annulled all this; but I use these citations to show you that the Congressional law which you denounce only enacted what was the original and publicly proclaimed and printed creed on which your church was founded. And yet while you assume that this later revelation gives you the right to turn your back on your old faith and disobey the law, you would not yourselves tolerate others in assuming rights for themselves under revelations they might claim to have received, or under religions they might profess. The Hindoos claim, as part of their religion, the right to burn widows with the dead bodies of their husbands. If they were to attempt it here, as their religion, you would prevent it by force. If a new revelation were to be proclaimed here, that the strong men should have the right to take the wives of the weaker men, that the learned men should take the wives of the unlearned, that the rich men should take the wives of the poor, that those who were powerful and influential should have the right to command the labor and the services of the humbler, as their bond-slaves, you would spurn it, and would rely upon the law and the power of the United States to protect you.

But you argue that it is a restraint on individual freedom ; and that it concerns only yourselves. Yet you justify these restraints on individual freedom in everything else. Let me prove this to you. If a man came here and sought to establish a liquor saloon on Temple street without license, you would justify your common council, which is your municipal congress, in suppressing it by force, and punishing the offender besides. Another one comes here and says that he will pursue his legitimate avocation of bone-boiling on a lot in the heart of your city. You will expect your council to prevent it, and why ? Because you believe it would be offensive to society and to the people around him. And still another says, that as an American citizen he will establish a powder mill on a lot he has purchased, next door to this hotel, where we have been so hospitably entertained. You would demand that this should be prevented, because it was obnoxious to the best interests of the community. I might use other illustrations as to personal conduct which you would insist should be restrained, although it fettered personal freedom, and the wrong-doer might say only concerned himself. But I have adduced sufficient to justify Congress in an enactment they deemed wise for the whole people for whom they legislated. And I need not go further to adduce other arguments as to the elevation of woman ; for my purpose has been in these remarks to indicate the right of Congress to pass the law and to insist on obedience to it.

One thing I must allude to, personal to myself. The papers have published a discourse delivered last April by your highest ecclesiastical authority, which stated that the President and Vice-President of the United States were both gamblers and drunkards. (Voices in the crowd, ' He did not say so. ') I had not heard before that it was denied, but I am glad to hear the denial now. Whether denied or not, however, I did not intend to answer railing with railing, nor personal attack with invective. I only wished to state publicly in this city, where the charge is said to have been made, that it was utterly untrue as to President Grant, and as to myself, that I never gambled to the value of a farthing, and have been a total abstinence man all the years of my manhood. However I may differ on political questions or others from any portion of my countrymen, no one has ever truthfully assailed my character. I have valued a good character far more than a political reputation or official honors, and wish to preserve it unspotted while life shall last.

A few words more and I must conclude. When our party visited you four years ago, we all believed that, under wise counsels, your city might become the great city of the interior. But you must allow me to say that you do not seem to have improved these opportunities as you might have done. What you should do to develop the advantages your position gives you, seems obvious. You should encourage and not discourage competition in trade. You should welcome, and not repel investments from abroad. You should discourage every effort to drive capital from your midst. You should rejoice at the opening of every new store, or factory, or machine shop, by whomsoever conducted. You should seek to widen the area of country dependent on your city for supplies. You should realize that wealth will come to you only by development, by unfettered competition, by increased capital.

Here I must close. I have spoken to you, face to face, frankly, truthfully, fearlessly. I have said nothing but for your own good. Let me counsel you once more to obedience

to the law, and thanking you for the patient hearing you have given me, and for the hospitalities our party have received, both from Mormon and Gentile citizens, I bid you all good night and good bye.

At the time this speech was delivered, Apostle John Taylor was in the Eastern States on business connected with the settlement of the claims of Utah contractors against the Union Pacific Railroad Company. This business took him to Boston, the home of one or more of the railway magnates, and it was there that he read the Colfax speech in the columns of the *Springfield Republican*, whose editor, Mr. Bowles, it will be remembered, accompanied the Vice-President on his travels. The Mormon Apostle's reply to Mr. Colfax will be interesting reading. It is therefore given :

AMERICAN HOUSE, BOSTON, MASS.,

October 20th, 1869.

To the Editor of the Deseret Evening News,

DEAR SIR:—I have read with a great deal of interest the speech of the Hon. Schuyler Colfax, delivered in Salt Lake City, October 5th, containing strictures on our institutions, as reported in the *Springfield Republican*, wherein there is an apparent frankness and sincerity manifested. It is pleasant, always, to listen to sentiments that are bold, unaffected and outspoken ; and however my views may differ—as they most assuredly do—from those of the Hon. Vice-President of the United States, I cannot but admire the candor and courtesy manifested in the discussion of this subject ; which, though to him perplexing and difficult, is to us an important part of our religious faith.

I would not, however, here be misunderstood ; I do not regard the speech of Mr. Colfax as something indifferent or meaningless. I consider that words proceeding from a gentleman occupying the honorable position of Mr. Colfax, have their due weight. His remarks, while they are courteous and polite, were evidently calmly weighed and cautiously uttered, and they carry with them a significance, which I, as a believer in Mormonism, am bound to notice ; and I hope with that honesty and candor which characterize the remarks of this honorable gentleman.

Mr. Colfax remarks :

“I have no strictures to offer as to your creeds on any really religious question. Our land is a land of civil and religious liberty, and the faith of every man is a matter between himself and God alone ; you have as much right to worship the Creator, through a President and Twelve Apostles of your Church organization ; as I have through the ministers and elders and creed of mine ; and this right I would defend for you with as much zeal as the right of any denomination throughout the land.”

This certainly is magnanimous and even-handed justice, and the sentiments do honor to their author ; they are sentiments that ought to be engraven on the heart of every American citizen.

He continues :

“ But our country is governed by law, and no assumed revelation justifies any one in trampling on the law.”

At first sight this reasoning is very plausible, and I have no doubt that Mr. Colfax was just as sincere and patriotic in the utterance of the latter as the former sentences ; but with all due deference permit me to examine these words and their import.

That our country is governed by law we all admit ; but when it is said that “ no assumed revelation justifies any one in trampling on the law ;” I should respectfully ask, what ! not if it interferes with my religious faith, which you state “ is a matter between God and myself alone ?” Allow me, sir, here to state that the assumed revelation referred to is one of the most vital parts of our religious faith ; it emanated from God and cannot be legislated away ; it is part of the “ Everlasting Covenant ” which God has given to man. Our marriages are solemnized by proper authority ; a woman is sealed unto a man for time and for eternity, by the power of which Jesus speaks, which “ sealed on earth and it is sealed in heaven.” With us it is “ Celestial Marriage ;” take this from us and you rob us of our hopes and associations in the resurrection of the just. This is not our religion ? You do not see things as we do. You marry for time only, “ until death does you part.” We have eternal covenants, eternal unions, eternal associations. I cannot, in an article like this, enter into details, which I should be pleased on a proper occasion to do. I make these remarks to show that it is considered, by us, a part of our religious faith, which I have no doubt did you understand it as we do, you would defend, as you state, “ with as much zeal as the right of every other denomination throughout the land.” Permit me here to say, however, that it was the revelation (I will not say assumed) that Joseph and Mary had, which made them look upon Jesus as the Messiah ; which made them flee from the wrath of Herod, who was seeking the young child’s life. This they did in contravention of law, which was his decree. Did they do wrong in protecting Jesus from the law ? But Herod was a tyrant. That makes no difference ; it was the law of the land, and I have yet to learn the difference between a tyrannical king and a tyrannical Congress. When we talk of executing law in either case, that means force,—force means an army, and an army means death. Now I am not sufficiently versed in metaphysics to discover the difference in its effects, between the asp of Cleopatra, the dagger of Brutus, the chalice of Lueretia Borgia, or the bullet or sabre of an American soldier.

I have, sir, written the above in consequence of some remarks which follow :

“ I do not conceive that the institution you have established here, and which is condemned by the law, is a question of religion.”

Now, with all due deference, I do think that if Mr. Colfax had carefully examined our religious faith he would have arrived at other conclusions. In the absence of this I might ask, who constituted Mr. Colfax a judge of my religious faith ? I think he has stated that “ the faith of every man *is a matter between himself and God alone.*”

Mr. Colfax has a perfect right to state and feel that he does not believe in the revelation on which my religious faith is based, nor in my faith at all ; but has he the right to *dictate* my religious faith ? I think not ; he does not consider it religion, but it is nevertheless mine.

If a revelation from God is not a religion, what is ?

His not believing it from God makes no difference ; I know it is. The Jews did not believe in Jesus but Mr. Colfax and I do ; their unbelief did not alter the revelation.

Marriage has from time immemorial, among civilized nations, been considered a religious ordinance. It was so considered by the Jews. It is looked upon by the Catholic clergy as one of their sacraments. It is so treated by the Greek Church. The ministers of the Episcopal Church say, in their marriage formula, "What *God has joined together*, let not *man* put asunder ;" and in some of the Protestant churches their members are disfellowshipped for marrying what are termed unbelievers. So I am in hopes, one of these times, should occasion require it, to call upon our friend, Mr. Colfax, to redeem his pledge :

"To defend for us our religious faith, with as much zeal as the right of every other denomination throughout the land."

I again quote :

"But to you who do claim it as such, I reply that the law that you denounce only re-enacts the original prohibition of your own Book of Mormon, on its 118th page, and your Book of Doctrine and Covenants, in its chapter on marriage."

In regard to the latter of these I would state that it was only considered a portion of the discipline of our Church, and was never looked upon as a revelation. It was published in the appendix to the Book of Doctrine and Covenants long before the revelation concerning Celestial Marriage was given. That, of course, suspended the former. The quotation from the Book of Mormon, given by Mr. Colfax, is only partly quoted. I cannot blame the gentleman for this : he has many engagements without examining our doctrine. I suppose this was handed to him. Had he read a little further he would have found it stated :

"For if I will, saith the Lord of Hosts, raise up seed unto me I will command my people ; otherwise they shall hearken unto these things."

In answer to this I say the Lord has commanded and we obey the command.

I again quote :

"And yet while you assume that this later revelation gives you the right to turn your back on your old faith and to disohey the law, you would not yourselves tolerate others in assuming rights for themselves under revelations they might claim to have received, or under religions they might profess."

Mr. Colfax is misinformed here. All religions are tolerated by us, and all revelations or assumed revelations. We take the liberty of disbelieving some of them ; but none are interfered with. And in relation to turning our back on our old religion we have never done it.

Concerning our permitting the Hindoos to burn their widows, it is difficult to say what we should do. The British Government has tolerated both polygamy and the burning of Hindoo widows in India. If the Hindoos were converted to our religion they would not burn their widows ; they are not likely to come to Utah without. Whose rights have we interfered with ? Whose property have we taken ? Whose religious or political faith or rights have been curtailed by us ? None. We have never interfered with Missouri or Illinois ; with Kansas, Nebraska, Idaho, Nevada, Montana, California,

nor any other State or Territory. I wish we could say the same of others. I hope we shall not be condemned for crimes we are expected to commit. It will be time enough to atone for them when done. We do acknowledge having lately started co-operative stores. Is this anything new in England, Germany, France or the United States? We think we have a right, as well as others, to buy and sell of and to whom we please. We do not interrupt others in selling, if they can get customers. We have commenced to deal with our friends. We do acknowledge that we are rigid in the enforcement of law against theft, gambling, debauchery and other civilized vices. Is this a crime? If so, we plead guilty.

But permit me here to return to the religious part of our investigations; for if our doctrines are religious, then it is confessed that Congress has no jurisdiction in this case and the argument is at an end. Mr. Webster defines religion as "*any system of faith and worship*, as the religion of the Turks, of Hindoos, of Christians." I have never been able to look at religion in any other light. I do not think Mr. Colfax had carefully digested the subject when he said, "I do not concede that the institution you have established here, and which is condemned by law, is a question of religion."

Are we to understand by this that Mr. Colfax is created an umpire to decide upon what is religion and what is not, upon what is true religion and what is false? If so, by whom and what authority is he created judge? I am sure he has not reflected upon the bearing of this hypothesis, or he would not have made such an utterance.

According to this theory no persons ever were persecuted for their religion, there never was such a thing known. Could anybody suppose that that erudite, venerable, and profoundly learned body of men,—the great Sanhedrim of the Jews; or that those holy men, the chief priests, scribes and Pharisees, would persecute anybody for religion? Jesus was put to death,—not for his religion—but because he was a blasphemer: because he had a devil and cast out devils, through Beelzebub the prince of devils; because he, being a carpenter's son, and known among them as such, declared himself the Son of God. So they said, and they were the then judges. Could anybody be more horrified than those Jews at such pretensions? His disciples were persecuted, proscribed and put to death, not for their religion, but because they "were pestilent fellows and stirrers up of sedition," and because they believed in an "assumed revelation" concerning "one Jesus, who was put to death, and who, they said, had risen again." It was for false pretensions and a lack of religion that they were persecuted. Their religion was not like that of the Jews; ours, not like that of Mr. Colfax.

Loyola did not invent and put into use the faggot, the flame, the sword, the thumb-screw, the rack and gibbet to persecute anybody, it was to purify the church of heretics, as others would purify Utah. His zeal was for the Holy Mother Church. The Nonconformists of England and Holland, the Huguenots of France and the Scottish Covenanters were not persecuted or put to death for their religion; it was for being schismatics, turbulent and unbelievers. Talk of religion, what horrid things have not been perpetrated in its name! All of the above claimed that they were persecuted for their religion. All of the persecutors, as Mr. Colfax said about us, did "not concede that the institution they had established, which was condemned by the law, was religion;" or, in other terms, it was an imposture or false religion. What of the Quakers and Baptists of New England?

You say we complain of persecution. Have we not cause to do it? Can we call our treatment by a milder term? Was it benevolence that robbed, pillaged and drove thousands of men, women and children from Missouri? Was it Christian philanthropy that after robbing, plundering, and ravaging a whole community, drove them from Illinois into the wilderness among savages?

When we fled as outcasts and exiles from the United States we went to Mexican territory. If not protected we should have been at least unmolested there. Do you think, in your treaty with Mexico, it was a very merciful providence that placed us again under your paternal guardianship? Did you know that you called upon us in our exodus from Illinois for 500 men, which were furnished while fleeing from persecution, to help you to possess that country; for which your tender mercies were exhibited by letting loose an army upon us, and you spent about forty millions of dollars to accomplish our ruin? Of course we did not suffer; "religious fanatics" cannot feel; like the cels the fishwoman was skinning, "we have got used to it." Upon what pretext was this done? Upon the false fabrications of your own officers, and which your own Governor Cumming afterward published as false. Thus the whole of this infamous proceeding was predicated upon falsehood, originating with your own officers and afterwards exposed by them. Did Government make any amends, or has it ever done it? Is it wrong to call this persecution? We have learned to our cost "that the king can do no wrong." Excuse me, sir, if I speak warmly. This people have labored under accumulated wrongs for upwards of thirty years past, still unacknowledged and unredressed. I have said nothing in the above but what I am prepared to prove. What is all this for? Polygamy? No—that is not even pretended.

Having said so much with regard to Mr. Colfax's speech, let me now address a few words to Congress and to the nation. I hope they will not object for I too am a teacher. And first let me inquire into the law itself, enacted in 1862. The revelation on polygamy was given in 1843, nineteen years before the passage of the Congressional act. We, as a people, believe that revelation is true and came from God. This is our religious belief; and right or wrong it is still our belief; whatever opinions others may entertain it makes no difference to our religious faith. The Constitution is to protect me in my religious faith, and other persons in theirs, as I understand it. It does not prescribe a faith for me, or any one else, or authorize others to do it, not even Congress. It simply protects us all in our religious faiths. This is one of the Constitutional rights reserved by the people. Now who does not know that the law of 1862 in relation to polygamy was passed on purpose to interfere with our religious faith? This was as plainly and distinctly its object as the proclamation of Herod to kill the young children under two years old, was meant to destroy Jesus; or the law passed by Pharaoh in regard to the destruction of the Hebrew children, was meant to destroy the Israelites. If a law had been passed making it a penal offense for communities, or churches, to forbid marriage, who would not have understood that it referred to the Shaking Quakers, and to the priories, nunneries and the priesthood of the Catholic Church? This law, in its inception, progress and passage, was intended to bring us into collision with the United States, that a pretext might be found for our ruin. These are facts that no honest man will controvert. It could not have been more plain, although more honest, if it had

said the Mormons shall have no more wives than one. It was a direct attack upon our religious faith. It is the old story of the lamb drinking below the wolf, and being accused by it of fouling the waters above. The big bully of a boy putting a chip on his shoulder and daring the little urchin to knock it off.

But we are graciously told that we have our appeal. True, we have an appeal. So had the Hebrew mothers to Pharaoh; so had Daniel to Nebuchadnezzar; so had Jesus to Herod: so had Cæsar to Brutus; so had those sufferers on the rack to Loyola; so had the Waldenses and Albigenses to the Pope: so had the Quakers and Baptists of New England to the Puritans. Why did they not do it? Please answer.

Do statesmen and politicians realize what they are doing when they pass such laws? Do they know, as before stated, that resistance to the law means force, that force means an army, and that an army means death? They may yet find something more pleasant to reflect upon than to have been the aiders and abettors of murder, to be stained with the blood of innocence, and they may try in vain to cleanse their hands of the accursed spot.

It is not the first time that presidents, kings, congresses and statesmen have tried to regulate the acts of Jehovah. Pharaoh's exterminating order about the Hebrew infants was one of acknowledged policy. They grew, they increased too fast. Perhaps the Egyptians had learned, as well as some of our eastern reformers, the art of infanticide; they may have thought that one or two children was enough and so destroyed the balance. They could not submit to let nature take its vulgar course. But in their refined and polite murders, they found themselves dwindling and decaying, and the Hebrews increasing and multiplying; and no matter how shocking it might be to their refined senses, it stood before them as a political fact, and they were in danger of being overwhelmed by the superior fecundity of the Hebrews. Something must be done; what more natural than to serve the Hebrew children as they had served their own? and this, to us and the Christian world, shocking act of brutal murder, was to them simply what they may have done among themselves; perhaps more politely *a la* Madam Restelle, but not more effectually. The circumstances are not very dissimilar. When Jesus was plotted against by Herod and the infants put to death, who could complain? *It was law*: we must submit to *law*. The Lord Jehovah, or Jesus the Savior of the world, has no right to interfere with *law*. Jesus was crucified *according to law*. Who can complain? Daniel was thrown into the den of lions strictly *according to law*. The king would have saved him, if he could; but he could not resist *law*. The massacre of St. Bartholomew was in accordance with *law*. The guillotine of Robespierre of France, which cut heads off by the thousand, did it according to *law*. What right had the victims to complain? But these things were done in barbarous ages. Do not let us, then, who boast of our civilization, follow their example; let us be more just, more generous, more forbearing, more magnanimous. We are told that we are living in a more enlightened age. Our morals are more pure (?) our ideas more refined and enlarged, our institutions more liberal. "Ours," says Mr. Colfax, "is a land of civil and religious liberty, and the faith of every man is a matter between himself and God alone," providing God don't shock our moral ideas by introducing something that we don't believe in. If He does let Him look out. We won't persecute, very far be that from us; but we will make our platform, pass Con-

gressional laws and make you submit to them. We may, it is true, have to send out an army, and shed the blood of many; but what of that? It is so much more pleasant to be proscribed and killed according to the laws of the Great Republic, in the "asylum for the oppressed," than to perish ignobly by the decrees of kings, through their miserable minions, in the barbaric ages.

My mind wanders back upwards of thirty years ago, when in the State of Missouri, Mr. McBride, an old gray-haired venerable veteran of the Revolution, with feeble frame and tottering steps, cried to a Missouri patriot: "Spare my life, I am a Revolutionary soldier, I fought for liberty, would you murder me? What is my offense, I believe in God and revelation?" This frenzied disciple of a misplaced faith said, "take that, you God d——d Mormon," and with the butt of his gun he dashed his brains out, and he lay quivering there,—his white locks clotted with his own brains and gore on that soil that he had heretofore shed his blood to redeem—a sacrifice at the shrine of liberty! Shades of Franklin, Jefferson and Washington, were you there? Did you gaze on this deed of blood? Did you see your companion in arms thus massacred? Did you know that thousands of American citizens were robbed, disfranchised, driven, pillaged and murdered? for these things seem to be forgotten by our statesmen. Were not these murderers punished? Was not justice done to the outraged? No. They were only Mormons, and when the Chief Magistrate was applied to, he replied: "Your cause is just, but I can do nothing for you." Oh, blessed land of religious freedom! What was this for. Polygamy? No. It was our religion then, it is our religion now. Monogamy or polygamy, it makes no difference. Let me here seriously ask: have we not had more than enough blood in this land? Does the insatiate moloch still cry for more victims?

Let me here respectfully ask with all sincerity, is there not plenty of scope for the action of government at home? What of your gambling hells? What of your gold rings, your whisky rings, your railroad rings, manipulated through the lobby into your Congressional rings? What of that great moral curse of the land, that great institution of monogamy—*Prostitution*? What of its twin sister—*Infanticide*? I speak to you as a friend. Know ye not that these seething infamies are corrupting and destroying your people? and that like the plague they are permeating your whole social system? that from your gilded palaces to your most filthy purlieus, they are festering and stewing and rotting? What of the thirty thousand prostitutes of New York City and the proportionate numbers of other cities, towns and villages, and their multitudinous pimps and paramours, who are, of course, all, all, honorable men! Here is ample room for the Christian, the philanthropist, and the statesman. Would it not be well to cleanse your own Augean stables? What of the blasted hopes, the tortured and crushed feelings of the thousands of your wives whose whole lives are blighted through your intrigues and lasciviousness? What of the humiliation of your sons and daughters from whom you can not hide your shame? What of the thousands of houseless and homeless children thrown ruthlessly, hopelessly and disgracefully upon the world as outcasts from society, whose fathers and mothers are alike ashamed of them and heartlessly throw them upon the public bounty, the living memorials of your infamy? What of your infanticide, with its murderous, horrid, unnatural, disgusting and damning consequences? Can you legislate for these monogamic crimes, or shall Madam Restell and her pupils continue

their public murders and no redress? Shall your fair daughters, the princesses of America, ruthlessly go on in sacrificing their noble children on the altar of this Moloch—this demon? What are we drifting to? This “bonehouse,” this “powder magazine” is not in Salt Lake City, a thousand miles from your frontiers; it is in your own cities and towns, villages and homes. It carouses in your secret chambers, and flaunts in the public highway; it meets you in every corner, and besets you in every condition. Your infirmaries and hospitals are reeking with it; your sons and daughters, your wives and husbands are degraded by it. It extends from Louisiana to Minnesota, and from Maine to California. You can't hide yourselves from it; it meets you in your magazines and newspapers, and is disgustingly placarded on your walls,—a living, breathing, loathsome, festering, damning evil. It runs through your very blood, stares out your eyes and stamps its horrid mark on your features, as indelibly as the mark of Cain; it curses your posterity, it runs riot in the land, withering, blighting, corroding and corrupting the life blood of the nation.

Ye American Statesmen, will you allow this demon to run riot in the land, and while you are speculating about a little political capital to be made out of Utah, allow your nation to be emasculated and destroyed? Is it not humiliating that these enormities should exist in your midst, and you, as statesmen, as legislators, as municipal and town authorities, as clergymen, reformers and philanthropists, acknowledge yourselves powerless to stop these damning crimes that are gnawing at the very vitals of the most magnificent nation on the earth? We can teach you a lesson on this matter, polygamists as we are. You acknowledge one wife and her children; what of your other associations unacknowledged? We acknowledge and maintain all of our wives and all of our children; we don't keep a few only, and turn the others out as outcasts, to be provided for by orphan asylums, or turned as vagabonds on the street to help increase the fearfully growing evil. Our actions are all honest, open and above board. We have no gambling hells, no drunkenness, no infanticide, no houses of assignation, no prostitutes. Our wives are not afraid of intrigues and debauchery; nor are our wives and daughters corrupted by designing and unprincipled villains. We believe in the chastity and virtue of women, and maintain them. There is not, today, in the wide world, a place where female honor, virtue and chastity, are so well protected as in Utah. Would you have us, I am sure you would not, on reflection, reverse the order of God, and exchange the sobriety, the chastity, the virtue and honor of our institutions, for yours, that are so debasing, dishonorable, corrupting, defaming and destructive? We have fled from these things, and with great trouble and care have purged ourselves from your evils, do not try to legislate them upon us nor seek to engulf us in your damning vices.

You may say it is not against your purity that we contend; but against polygamy, which we consider a crying evil. Be it so. Why then, if your system is so much better, does it not bring forth better fruits? Polygamy, it would seem, is the parent of chastity, honor and virtue; Monogamy the author of vice, dishonor and corruption. But you would argue these evils are not our religion; we that are virtuous, are as much opposed to vice and corruption as you are. Then why don't you control it? We can and do. You have your Christian associations, your Young Men's associations, your Magdalen and Temperance associations, all of which are praiseworthy. Your cities and towns are full

of churches, and you swarm with male and female lecturers, and ministers of all denominations. You have your press, your National and State Legislatures, your police, your municipal and town authorities, your courts, your prisons, your armies, all under the direction of Christian monogamists. You are a nation of Christians. Why are these things not stopped? You possess the moral, the religious, the civil and military power but you don't accomplish it. Is it too much to say, "Take the beam out of thine own eye and then shalt thou see clearly to remove the mote that is in thy brother's."

Respectfully, etc.,

JOHN TAYLOR.

On the 2nd of December of this year, an-article from the pen of Vice-President Colfax, headed "The Mormon Question,"—a response to Apostle Taylor's letter in the *Deseret News*,—appeared in the columns of the New York *Independent*. To this the Apostle also replied. Owing to the length of the articles we will not reproduce them entire, but merely give extracts from Elder Taylor's answer, which contains in quotations the salient points of Mr. Colfax's rejoinder to the first reply. Says the Apostle :

If it had been a personal difference I should have had no controversy with Mr. Colfax, and the honorable gentleman, I am sure, will excuse me for standing up in the defense of what I know to be a traduced and injured people. I would not accuse the gentleman of misrepresentation. I cannot help knowing, however, that he is misinformed in relation to most of his historical details; and justice to an outraged community, as well as truth, requires that such statements should be met and the truth vindicated. I cannot but think that in refusing the proffered hospitality of our city, which, of course, he had a perfect right to do, he threw himself among a class of men that were, perhaps, not very reliable in historical data.

* * * * *

He states that "the demand of the people of Utah Territory for immediate admission into the Union, as a State, made at their recent conference meeting, and to be presented by their delegate at the approaching session of Congress, compels the nation to meet face to face, a question which it has apparently endeavored to ignore."

Is there anything remarkable in a Territory applying for admission into the Union? How have other States entered the Union since the admission of the first thirteen? Were they not all Territories in their turn, and generally applied to Congress for, and obtained admission? Why should Utah be an exception? She has from time to time, as a constitutional requisition, presented a petition with a constitution containing a republican form of government. Since her application California, Nevada, Kansas, Minnesota, Oregon and Nebraska have been admitted. And why should Congress, as Mr. Colfax says, "endeavor to ignore Utah?" And why should it be so difficult a question to meet "face to face?" Has it become so very difficult for Congress to do

right? What is the matter? Some remarkable conversation was had between Brigham Young and Senator Trumbull. Now, as I did not happen to hear this conversation, I cannot say what it was. One thing, however, I do know that I have seen hundreds of distinguished gentlemen call on President Young, and they have been uniformly better treated than has been reciprocated. But something was said about United States officers. I am sorry to say that many United States officers have so deposed themselves that they have not been much above par with us. They may indeed be satraps and require homage and obeisance; but we have yet to learn to bow the knee. Brigham Young does not generally speak even to a United States Senator with honeyed words and measured sentences; but as an ingenuous and honest man. But we are told that "the recent expulsion of prominent members of his Church for doubting his infallibility proves that he regards his power as equal to any emergency and has a will equal to his power."

I am sorry to have to say that Mr. Colfax is mistaken here. No person was ever dismissed from the Church of Jesus Christ of Latter-day Saints for disbelieving in the infallibility of President Young. I do not believe he is infallible, for one; and have so taught publicly. I am in the Church yet. Neither have I ever heard President Young make any such pretensions. Mr. Colfax is a good politician, but he makes sad blunders in polemics. He makes a magnificent Speaker and President of the Senate; I am afraid, however, that as a preacher he would not be so successful. The honorable gentleman now proceeds to divide his subject and commences.

"1. THEIR FERTILIZING OF THE DESERT.—For this they claim great credit, and I would not detract an iota from all they are legitimately entitled to. It *was* a desert when they first emigrated thither. They have made large portions of it fruitful and productive, and their chief city is beautiful in location and attractive in its gardens and shrubbery. But the solution of it all is one word—water. What seemed to the eye a desert became fruitful when irrigated, and the mountains, whose crests are clothed in perpetual snow, furnished, in the unailing supplies of their ravines, the necessary fertilizer."

Water! *Mirabile dictu!!* Here I must help Mr. C. out. This wonderful little water nymph, after playing with the clouds on our mountain tops, frolicking with the snow and rain in our rugged gorges for generations, coquetting with the sun and dancing to the sheen of the moon, about the time the Mormons came here took upon herself to perform a great miracle, and descending to the valley, with a wave of her magic wand and the mysterious words, "hickory, dickory, dock," cities and streets were laid out, crystal waters flowed in ten thousand rippling streams, fruit trees and shrubbery sprang up, gardens and orchards abounded, cottages and mansions were organized, fruits, flowers and grain in all their elysian glory appeared and the desert blossomed as the rose; and this little frolicking elf, so long confined to the mountains and water courses proved herself far more powerful than Cinderella or Aladdin. Oh! Jealousy, thou green-eyed monster! Can no station in life be protected from the shimmer of thy glamour! Must our talented and honorable Vice-President be subjected to thy jaundiced touch? But to be serious, did water tunnel through our mountains, construct dams, canals and ditches, lay out our cities and towns, import and plant choice fruit-trees, shrubs and flowers, cultivate the land and cover it with the cattle on a thousand hills, erect churches, schoolhouses and factories, and transform a howling wilderness into a fruitful field and garden? If so, why

does not the Green River, the Snake River, Bear River, Colorado, the Platte and other rivers perform the same prodigies? Unfortunately for Mr. Colfax, it was Mormon polygamists who did it. The Erie, the Welland, the Pennsylvania and Suez canals are only water. What if a stranger on gazing upon the statuary in Washington and our magnificent Capitol, and after rubbing his eyes were to exclaim, "Eureka! It is only rock and mortar and wood." This discoverer would announce that instead of the development of art, intelligence, industry and enterprise, its component parts were simply stone, mortar and wood. Mr. Colfax has discovered that our improvements are attributable to water. We next come to another division and quote "Their persecutions:"

"This is also one of their favorite themes. Constantly it is reiterated by their apostles and bishops, from week to week, and from year to year. It is discoursed about in their tabernacles and the ward and town churches. It is written about in their periodicals and papers. It is talked about with nearly every stranger that comes into their midst. They have been driven from place to place, they claim, solely on account of their religious belief. Their faith has subjected them to the wickedest persecution by unbelievers. They have been despoiled, they insist, of their property; maltreated in their persons, buffeted and cast out, because they would not renounce their professions and their revelations."

This, sir, is all true; does it falsify a truth to repeat it? The Mormons make these statements and are always prepared to prove them. I referred to some of these things in my last; Mr. Colfax has not disproved them. He now states, "I do not attempt to decide that the charges against them are well founded." Why then are they made? Has it become so desirable to put down the Mormons that unfounded charges must be preferred against them?

"Their church was first established at Manchester, New York, in 1830, and their first removal was in 1831, to Kirtland, Ohio, which they declared was *revealed to them as the site of their New Jerusalem*. [A mistake.] Thence their leaders went west to search a new location, which they found in Jackson County, Missouri, and dedicated a site for another New Jerusalem there, and returned to Kirtland to remain for five years, avowedly to make money; [an error] a bank was established there by them; large quantities of bills of doubtful value issued, and growing out of charges of fraudulent dealing, Smith and Rigdon were tarred and feathered." This is a gross perversion; Smith and Rigdon were tarred and feathered in March, 1832, in Hiram, Portage County; the bank was organized December 2nd, 1836, in Kirtland.

Mr. Colfax continues: "And unjustifiable as such outrages are, this one was based on alleged fraud and not on religious belief." Allow me to state that this persecution was based on religious belief and not on fraud, and that this statement is a perversion, for the bank was not opened until several years after the tarring and feathering referred to. But did the bank fail? Yes, in 1837, about five years after, in the great financial crisis; and so did most of the banks in the United States, in Canada, a great many in England, France and other parts of Europe. Is it so much more criminal for the Mormons to make a failure than others? Their bank was swallowed in the general financial maelstrom, and some time after the failure of the bank the bills were principally redeemed.

"They fled to Missouri, their followers joined them there, they were soon accused of plundering and burning habitations and with secret assassinations." Was there no law

in Missouri? The Missourians certainly did not lack either the will or the power to enforce it. Why were not the robbers, incendiaries, and assassins dealt with?

* * * But it is not true that these things existed, for I was there and knew to the contrary; and so did the people of Missouri, and so did the Governor of Missouri. Mobs were surrounding us on every hand, burning our houses, murdering our people, destroying our crops, killing our cattle. About this time that horrible massacre at Haun's Mill took place, where men, women and children were indiscriminately butchered, and their remains, for want of other sepulture, were thrown into a well. Messages were coming in from all parts, of fire, devastation, blood and death. We threw up a few logs and fences for protection; this, I suppose, is what Mr. Colfax calls, "fortifying their towns and defying the officers of law." If wagons and fences and a few house logs are fortifications, we were fortified; and if the mob, whose hands were dripping with the blood of men, women and children, whom they had murdered in cold blood, were "officers of the law" then we are guilty of the charge. * * * * *

On this subject I could quote volumes. I will only say that when authenticated testimony was presented to Martin Van Buren, the President of the United States, he replied, "Your cause is just; but I can do nothing for you."

Mr. Colfax, in summing up, says, "There is nothing in this as to their religion." Read the following;

Tuesday, November 6th, 1838, General Clark made the following remarks to a number of men in Far West, Missouri:

"Gentlemen, you whose names are not attached to this list of names will now have the privilege of going to your fields and providing corn and wood for your families. Another article yet remains for you to comply with, that is, that you leave the State forthwith, and whatever may be your feelings concerning this, or *whatever your innocence* is nothing to me. The orders of the governor to me were that you should be exterminated. I would advise you to scatter abroad and never again organize yourselves with bishops, presidents, etc., lest you excite the jealousies of the people."

Is not this persecution for religion?

Mr. Colfax next takes us to Nauvoo and says, "In Nauvoo they remained until 1846; the disturbances which finally caused them to leave the city were not in consequence of their religious creed. Foster and Law, who had been Mormons, renounced the faith and established an anti-Mormon paper at Nauvoo called the *Expositor*. In May, 1844, the prophet and a party of his followers, on the publication of the first number, attacked the office, tore it down and destroyed the press."

This is a mistake. The *Expositor* was an infamous sheet, containing vile and libelous attacks upon individuals and the citizens generally, and would not have been allowed to exist in any other community a day. The people complained to the authorities about it; after mature deliberation the city council passed an ordinance ordering its removal as a nuisance, and it was removed. In a conversation with Governor Ford, on this subject, afterwards, when informed of the circumstances, he said to me, "I cannot blame you for destroying it, but I wish it had been done by a mob." I told him that we preferred a legal course, and that Blackstone described a libelous press as a nuisance and liable to be removed; that our city charter gave us the power to remove nuisances; and

that if it was supposed we had contravened the law, we were amenable for our acts and refused not an investigation. Mr. Colfax's history says, "The authorities thereupon called out the militia to enforce the law, and the Morimons armed themselves to resist it." The facts were that armed mobs were organized in the neighborhood of Carthage and Warsaw. The Governor came to Carthage and sent a deputation to Joseph Smith, requesting him to send another to him, with authentic documents in relation to the late difficulties. Dr. J. M. Bernhisel, our late delegate to Congress, and myself, were deputed as a committee to wait upon the Governor. His excellency thought it best (although we had had a hearing before) for us to have a rehearing on the press question. We called his attention to the unsettled state of the country, and the general mob-spirit that prevailed; and asked if we must bring a guard; that we felt fully competent to protect ourselves, but were afraid it would create a collision. He said, "You had better come entirely unarmed," and pledged his faith and the faith of the State for our protection. We went unarmed to Carthage, trusting in the Governor's word. Owing to the unsettled state of affairs we entered into recognizances to appear at another time. A warrant was issued for the arrest of Joseph and Hyrum Smith, for treason. They were remanded to jail, and while there were murdered. Not "by a party of mob," as Mr. Colfax's history states, "from Missouri," hut by men in Illinois, who, with blackened faces, perpetrated the hellish deed; they did not overpower the guard, as stated, the guard helped them in the performance of their fiendish act. I saw them for I was there at the time. I could a tale unfold that would implicate editors, officers, military and civil, ministers of the gospel, and other wolves in sheep's clothing.

The following will show in part what our position was:

"A proclamation to the citizens of Hancock County:—Whereas a mob of from one to two hundred men, under arms have gathered themselves together in the south-west part of Hancock County, and are at this time destroying the dwellings, and other buildings, stacks of grain and other property, of a portion of our citizens in the most inhuman manner, compelling the defenseless women and children to leave their sick beds and exposing them to the rays of the parching sun, there to lie and suffer without aid or assistance of a friendly hand, to minister to their wants, in their suffering condition. The rioters spare not the widow nor orphan, and while I am writing this proclamation, the smoke is arising to the clouds, and the flame is devouring four buildings which have just been set on fire by the rioters. Thousands of dollars' worth of property has already been consumed, an entire settlement of about sixty or seventy families laid waste, the inhabitants thereof are fired upon, narrowly escaping with their lives, and forced to flee before the ravages of the mob. Therefore I — command said rioters and other peace breakers to desist, forthwith, and I hereby call upon the law-abiding citizens, as a *posse comitatus* of Hancock County to give their united aid in suppressing the rioters and maintaining the supremacy of the law.

J. B. BACKENSTOS,

"Sheriff of Hancock County, Illinois."

Mr. Backenstos was not a Mormon.

We set out in search of an asylum, in some far off wilderness, where we hoped we could enjoy religious liberty. Previous to our departure a committee composed of Stephen A. Douglas, General John J. Hardin, both members of Congress, the Attorney

General of Illinois, Major Warren and others, met in my house, in Nauvoo, in conference with the Twelve, to consult about our departure. They were then presented the picture of devastation that would follow our exodus, and felt ashamed to have to acknowledge that State and United States authorities had to ask a persecuted and outraged people to leave their property, homes and firesides for their oppressors to enjoy; not because we had not a good Constitution and liberal government, but because there was not virtue and power in the State and United States authorities to protect them in their rights. We made a treaty with them to leave; after this treaty, when the strong men and the majority of the people had left, and there was nothing but old and infirm men, boys, women and children to battle with, like ravenous wolves, impatient for their prey, they violated their treaty by making war upon them, and driving them houseless, homeless, and destitute across the Mississippi River.

The archæologist, the antiquarian, and the traveler need not then have gone to Herculaneum, to Pompeii; to Egypt or Yucatan, in search of ruins or deserted cities; they could have found a deserted temple, forsaken family altars, desolate hearth stones and homes, a deserted city much easier; the time, the nineteenth century; the place the United States of America; the State, Illinois, and the city, Nauvoo.

While fleeing, as fugitives, from the United States, and in Indian Territory, a requisition was made by the Government for 500 men to assist in conquering Mexico, the very nation to whose territory we were fleeing in our exile; we supplied the demand and though despoiled and expatriated, were the principal agents in planting the United States flag in Upper California.

I again quote:

“In September, 1850, Congress organized Utah Territory, and President Fillmore appointed Brigham Young (who at Smith's death had become President of the Church) as Governor. The next year the Federal judges were compelled by Brigham Young's threats of violence to flee from the Territory, and the laws of the United States were openly defied. Col. Steptoe was commissioned Governor in place of Young, but after wintering with a battalion of soldiers at Salt Lake, he resigned, not deeming it safe or prudent to accept.”

So far from this being the case, Col. Steptoe was on the best of terms with our community, and previous to his appointment as Governor, a number of our prominent Gentile citizens, judges, Col. Steptoe and some of his officers signed a petition to the President praying for the continuance of President Young in office. He continues: “In February, 1856, a mob of armed Mormons, instigated by sermons from the heads of the Church, broke into the United States court room and at the point of the bowie knife compelled Judge Drummond to adjourn his court *sine die*,” [This is a sheer fabrication, there never was such an occurrence in Utah] “and very soon all the United States officers, except the Indian Agent, were compelled to flee from the Territory.” Now this same amiable and persecuted Judge Drummond brought with him a courtesan from Washington, whom he introduced as his wife, and had her with him on the bench. The following will show the mistake in regard to Col. Steptoe and others:

“To His Excellency Franklin Pierce, President of the United States:

“Your petitioners would respectfully represent that, *Whereas*, Governor Brigham Young possesses the entire confidence of the people of this Territory, without distinction

of party or sect, and from personal acquaintance and social intercourse, we find him to be a firm supporter of the Constitution and laws of the United States, and a tried pillar of Republican institutions; and having repeatedly listened to his remarks, in private as well as in public assemblies, do know he is a warm friend and able supporter of Constitutional liberty, the rumors published in the States to the contrary, notwithstanding; and having canvassed to our satisfaction, his doings as Governor and Superintendent of Indian Affairs, and also the distribution of appropriations for public buildings for the Territory, we do most cordially and cheerfully represent that the same have been expended to the best interest of the nation; and whereas, his appointment would better subserve the Territorial interest than the appointment of any other man,

“We therefore take great pleasure in recommending him to your favorable consideration, and do earnestly request his appointment as Governor and Superintendent of Indian affairs for this Territory.

“J. F. Kinney, Chief Justice Supreme Court; Leonidas Shaver, Associate Justice; E. J. Steptoe, Lt. Col. U. S. Army; John F. Reynolds, Bvt. Maj.; Rufus Ingales, Capt.; Sylvester Mowry, La Chett, L. Livingston, John C. Chandler, Robert O. Tyler, Benj. Allston, Lieutenants; Charles A. Perry, Wm. G. Rankin, Horace R. Kirby, Medical Staff, U. S. A.; Henry C. Branch, C. C. Branham, C. J. Bipne, Lucian L. Bedell, Wm. Mac, J. M. Hockaday, and other strangers.

“SALT LAKE CITY, UTAH TERRITORY,

“December 30th, 1854.”

There was really no more cause for an army then than there is now, and there is no more reason now, in reality, than there was then, and the bills of Messrs. Cragin and Cullom, are only a series of the same infamies that we have before experienced, and are designed, as all unbiased men know, to create a difficulty and collision, aided by the clamor of speculators and contractors, who have, of course, a very disinterested desire to to relieve their venerated uncle by thrusting their patriotic hands into his pockets.

* * * * *

President Buchanan, goaded by the Republicans, wished to show them that in regard to the Mormons he dared out Herod Herod, by fitting up an army to make war upon the Mormons; but it was necessary to have a pretext. It would not have been popular to destroy a whole community in cold blood, so he sent out a few miserable minions and renegades for the purpose of provoking a collision. These men not only acted infamously here, but published false statements throughout the United States, and every kind of infamy—as is now being done by just such characters—was laid at the door of the Mormons. They said, among other things, that we had burned the U. S. records. These statements were afterwards denied by Governor Cumming. Mr. Buchanan had another object in view, and Mr. J. B. Floyd, Secretary of War, had also his ax to grind, and the whole combined was considered a grand *coup d'etat*. It is hardly necessary to inform Mr. Colfax that this army, under pretense of subjugating the Mormons, was intended to coerce the people of Kansas to his views, and that they were not detained as stated by Mr. Colfax's history, which said: “The troops, necessarily moving slowly, were overtaken by the snows in November, and wintered at Bridger.” I need not inform Mr. Colfax that another part of this grand tableau originated in the desire of Secretary

Floyd to scatter the U. S. forces and arms, preparatory to the Confederate rebellion. Such is history and such are facts.

We were well informed as to the object of the coming of the army ; we had men in all of the camps, and knew what was intended. There was a continual boast among the men and officers, even before they left the Missouri River, of what they would do with the Mormons. The houses were picked out that certain persons were to inhabit ; farms, property and women were to be distributed. "Beauty and booty" were their watchword. We were to have another grand Norman conquest, and our houses, gardens, orchards, vineyards, fields, wives and daughters were to be the spoils. Instead of this Mr. Buchanan kept them too long about Kansas ; the Lord put a hook in their jaws, and instead of reveling in sacked towns and cities and glutting their libidinous and riotous desires in ravishing, destroying and laying waste, they gnawed dead mules' legs at Bridger, rendered palatable by the ice, frost and snow of a mountain winter, seasoned by the pestiferous exhalations of hetacombs of dead animals, the debris of a ruined army, at a cost to the nation of about forty millions. We had reason to say then, "The Lord reigns, let the earth be glad." Oh, how wicked it was for President Young to resist an army like the above, prostituted by the guardians of a free and enlightened republic to the capacity of buccaneers and brigands !

* * * * *

I now come to Mr. Colfax's next heading, "their polygamy :"

As this is simply a rehash of his former arguments, without answering mine, I beg to be excused inserting his very lengthy quotation, as this article is already long. In regard to our tolerations of all religions, Mr. C. entertains very singular ideas. We do invite men of almost all persuasions to preach to us in our tabernacles, but we are not so latitudinarian in our principles as to furnish meeting houses for all ; we never considered this a part of the programme. Meeting houses are generally closed against us everywhere, and men are advised not to go and hear us ; we open ours, and say to our congregation go and hear them, but we do not engage to furnish all. Neither is the following statement correct : "About the same time he (Mr. Taylor) was writing it, Godbe and others were being expelled from the Church for disbelieving the infallibility of Brigham Young." No person, as I before stated, was ever expelled from the Church for doubting the infallibility of President Young ; it is but just to say that President Young himself disclaims it. Mr. C. again repeats his argument in relation to the suttee, or burning of widows in India, and after giving a very elaborate and correct account of its suppression by English authority says :—

"Wherever English power is recognized there this so-called religious rite is now sternly forbidden and prevented. England with united voice said stop ! and India obeyed."

"To present Mr. Colfax's argument fairly, it stands thus : The burning of Hindoo widows was considered a religious rite, by the Hindoos. The British were horrified at the practice and suppressed it. The Mormons believe polygamy to be a religious rite. The American nation consider it a scandal and that they ought to put it down. Without entering into all the details, I think the above a fair statement of the question. He says 'the claim that religious faith commanded it was powerless, and it went down as a relic

of barbarism.' He says: 'History tells us what a civilized nation, akin to ours, actually did, where they had the power.' I wish to treat this argument with candor, although I do not look upon the British nation as a fit example for us; it was not so thought in the time of the Revolution. I hope we would not follow them in charging their cannon with Sepoys, and shooting them off in this same India. I am glad, also, to find that our Administration views and acts upon the question of neutrality more honorably than our trans-Atlantic cousins. But to the point. The British suppressed the suttee in India, and therefore we must be equally moral and suppress polygamy in the United States. Hold! not so fast; let us state facts as they are and remove the dust. The British suppressed the suttee, but tolerated eighty-three millions of polygamists in India. The suppression of the suttee and that of polygamy are two very different things. If the British are indeed to be our exemplars, Congress had better wait until polygamy is suppressed in India. But it is absurd to compare the suttee to polygamy; one is murder and the destruction of life, the other is national economy and the increase and perpetuation of life. *Suttee* ranks truly with *Infanticide*, both of which are destructive of human life. *Polygamy* is salvation compared with either, and tends even more than monogamy to increase and perpetuate the human race.

I have now waded through Mr. Colfax's charges and have proven the falsity of his assertions and the tergiversation of his historical data. I will not say his but his adopted history; for it is but fair to say that he disclaims vouching for its accuracy.

Permit me here again to assert my right as a public teacher, to address myself to Congress and the nation, and to call their attention to something that is more demoralizing, debasing, and destructive than polygamy. As an offset to my former remarks on these things, we are referred to our mortality of infants as "exceeding anything else known."

Mr. Colfax is certainly in error here. In France, according to late statistical reports on *la mort d' enfants*, they were rated as from fifty to eighty per cent. of the whole under one year old. The following is from the Salt Lake City sexton's report for 1869:

"Total interments during the year, 484; deducting persons brought from the country places for interment, and transients, 93: leaving the mortality of this city, 391.

"JOS. E. TAYLOR, Sexton."

"Having been often asked the question: Whether the death-rate was not considerably greater among polygamic families than monogamic, I will answer; Of the 292 children buried from Salt Lake City last year [1869], 64 were children of polygamists; while 228 were children of monogamists; and further, that out of this number, there was not even one case of infanticide.

"Respectfully,

"JOS. E. TAYLOR."

We had a sickly season last year among children; but when it is considered that we have twice as many children as any other place, in proportion to the number of inhabitants, the death-rate is very low, especially among polygamists.

But supposing it was true, "the *argumentum ad hominum*," which Mr. Colfax says he "might use," would scarcely be an *argumentum ad judicium*; for if all the children in Salt Lake City or Utah died, it would certainly not do away with that horrible crime,

infanticide. Would Mr. Colfax say that because a great number of children in Utah, who were children of polygamists, died, that, therefore, infanticide in the United States is justifiable? and that the acts of Madame Restelle and her pupils were right and proper? I know he would not, his ideas are more pure, generous and exalted. Mr. Colfax says of us, "I do not charge infant murder, of course." Now I do charge that infant murder prevails to an alarming extent in the United States. The following will show how near right I am. Extract from a book entitled, *Serpents in a Dove's Nest*, by Rev. John Todd, D. D., Boston. Lec and Shepherd.

* * * * *

I have statistics before me now, from a physician, stating the amount of prostitution, foeticide and infanticide in Chicago; but bad as Chicago is represented to be, these statements are so enormous and revolting that I cannot believe them. Neither is the statement made by some of the papers, in regard to Mr. Colfax's association with the Richardson case, reliable. Men in his position have their enemies, and it is not credible that a gentleman holding such strong prejudice about what he considers the immorality of the Mormons, and whose moral ideas in relation to virtue and chasity are so pure, could lend himself as an accomplice to the very worst and most revolting phase of Free Loveism. And I would here solicit the aid of Mr. Colfax, with his superior intelligence, his brilliant talents and honorable position, to help stop the blighting, withering curse of prostitution, foeticide and infanticide.

I call upon philosophers and philanthopists to stop it; know ye not that the transgression of every law of nature brings its own punishment, and that as noble a race of men as ever existed on the earth are becoming emasculated and destroyed by it? I call upon physicians to stop it; you are the guardians of the people's health, and justice requires that you should use all your endeavors to stop the demoralization and destruction of our race. I call upon ministers of the gospel to stop it; know ye not the wail of murdered infants is ascending into the ears of the Lord of Sabaoth and that the whole nation is hastening to destruction whilst you are singing lullaby songs to murderers and murderesses? I call upon statesmen to stop it; know ye not that the statisticians inform us that our original stock is running out, and that in consequence of this crime we are being supplanted by foreigners, and that the enemies of the negro race are already exulting in the hope of their speedy extinction, by copying your vices? I call upon the fair daughters of America and their abettors, their husbands and paramours to pause in their career of crime; you came of an honorable and pure stock, your fathers, mothers and grandmothers' hands were not stained with the blood of innocence; they could press their pillows in peace, without the fear of a visit from the shades of their wailing offspring. I call upon municipal and State authorities and especially upon Congress to stop this withering, cursing and damning blight. I call upon all honorable men and women to use their influence to stop this growing evil. I conjure you by the love of God, by the ties of consanguinity, by a respect for our race and a love for our nation, by the moans of murdered infants and the fear of an avenging retribution, help stop this cursed evil!

In the province of Gazaret, Hindostan, parents have been in the habit of destroying infant children as soon as born; and at the festival held at Gunga Sergoor, children were sacrificed to the Ganges from time immemorial; both of these the British nation

suppressed. Shall we practice crimes in civilized and Christian America, that England will not allow heathens to perform, but put them down by the strong arm of the law? You indeed tell us that these things are "banned by you, banned by the law, banned by morality and public opinion;" your bans are but a mockery and a fraud, as are your New England temperance laws; your law reaches one in a thousand who is so unfortunate as to be publicly exposed. These crimes, of which I write, run riot in the land, a withering, cursing blight. The affected purity of the nation is a myth; like the whited walls and painted sepulchers, of which Jesus spake, "within there is nothing but rottenness and dead men's bones." Who, and what is banned by you? What power is there in your interdiction over the thirty thousand prostitutes and mistresses of New York and their amiable pimps and paramours? What of the thousands in the city of brotherly love, in Boston, in your large eastern, northern and southern cities? What of Washington? What of your four hundred murder establishments in New York and your New England operations in the same line? You are *virtuous* are you? God deliver us from such virtue. It may be well to talk about your purity and bans to those who are ignorant; it is too bare-faced for the informed. I say, as I said before, why don't you stop this damning, cursed evil? I am reminded of the Shakesperian spotter who cried, "I can call spirits from the vasty deep!" "So can I," said his hearer, "but they won't come!" Now we do control these horrid vices and crimes, do you want to force them upon us? Such things are

"A blot that will remain a blot in spite
Of all that grave apologists may write;
And, though a bishop try to cleanse the stain,
He rubs and scours the crimson spot in vain."

We have now a Territory out of debt; our cities, counties and towns are out of debt. We have no gambling, no drunkenness, no prostitution, fœticide nor infanticide. We maintain our wives and children, and we have made the "desert to blossom as the rose." We are at peace with ourselves and with all the world. Whom have we injured? Why can we not be let alone?

What are we offered by you in your proposed legislation? for it is well for us to count the cost. First—confiscation of property, our lands, houses, gardens, fields, vineyards, and orchards, legislated away by men who have no property, carpet-baggers, pettifoggers, adventurers, robbers, for you offer by your bills a premium for fraud and robbery. The first robs us of our property and leaves us the privilege, though despoiled, of retaining our honor, and of worshiping God according to the dictates of our own conscience. We have been robbed before; this we could stand again. Now for the second—the great privilege which you offer by *obedience*: Loss of honor and self respect; a renunciation of God and our religion; the prostitution of our wives and children to a level with your civilization; to be cursed with your debauchery; to be forced to countenance infanticide in our midst, and have your professional artists advertise their dens of murder among us; to swarm, as you do, with pimps and harlots and their paramours; to have gambling, drunkenness, whoredom, and all the pestiferous effects of debauchery; to be involved in debt and crime, forced upon us; to despise ourselves, to be despised by our wives,

children and friends, and to be despised and cursed of God, in time and in eternity. This you offer us and your religion to boot. It is true you tell us you will "ban it," but your bans are a myth; you would open the flood gates of crime and debauchery, infanticide, drunkenness and gambling, and practically tie them up with a strand of a spider's web. You cannot stop these; if you would you have not the power. We have, and prefer purity, honor, and a clear conscience, and our motto today is, as it ever has been, and I hope ever will be, "The Kingdom of God or nothing."

Apostle Taylor's reasoning did not convince the Vice-President that Mormonism's claims were correct, or that the system ought to be let alone by Congress and the Administration. Indeed the only effect on Mr. Colfax, excepting perhaps a better understanding of Mormon history, after the revision of his anti-Mormon notes by the Apostle, was to still further embitter him against the Saints, and cause him to use his influence with President Grant more determinedly than ever to their detriment.

CHAPTER XV.

1870.

THE UTAH LIBERAL PARTY—ITS CHARACTER AND ANTECEDENTS—A LITTLE OF ITS HISTORY—REVIEW OF LOCAL POLITICS—MCGRORTY AND HIS CONTEST FOR THE UTAH DELEGATESHIP—THE “MORMON TRIBUNE,” FORERUNNER OF THE “SALT LAKE TRIBUNE,” ESTABLISHED—THE “SALT LAKE HERALD”—POLITICAL COALITION OF THE GENTILES AND GODBEITES—BIRTH OF THE INDEPENDENT OR LIBERAL PARTY—THE SALT LAKE CITY ELECTION OF 1870—DANIEL H. WELLS AND HENRY W. LAWRENCE CANDIDATES FOR THE MAYORALTY—A PRACTICAL JOKE BY “THE PEOPLE”—THE INDEPENDENTS “SNOWED UNDER”—THE CORINNE CONVENTION—THE LIBERAL CHRISTENING—GEORGE R. MAXWELL RUNS FOR CONGRESS AGAINST WILLIAM H. HOOPER—ANOTHER LIBERAL DEFEAT.

IN the sequence and evolution of events we come now to the birth of the Liberal Party. This political organization, it is perhaps needless to say, was the first to enter the lists and contest with the People’s Party in the tournament of local politics. The term party implies division, and as there was practically no division, at least no organized division of the kind in question until the rise of the Liberal Party,—all or nearly all the citizens of the Territory, prior to that period, voting one way at elections,—some might maintain that up to that time no People’s Party existed here, and that both these organizations came into being simultaneously. This, however, would only be in part correct, since there was a fully equipped political organization—the People’s Party in all but name—extant in the Territory from the beginning.

This party comprised the Mormons, who were emphatically “the people” of Utah, constituting as they did, and as they still do, the vast majority of her citizens. In their political ranks, however were always a few friendly outsiders, non-communicants with the Saints in a religious way, but otherwise more or less attached to their interests. These were termed by the radical Gentiles “Jack-

Mormons," a name borrowed from Illinois politics of an earlier period. Here, as there, this opprobrious and much dreaded epithet came to be applied to every conservative non-Mormon in Utah; such as were unwilling or reluctant to join in the general hue and cry, and take part in the anti-Mormon crusades inaugurated by the Liberals. Many a Gentile who preferred peace to strife, and would fain have remained out of the fight waged between the local factions, particularly after it became a very bitter fight, was whipped into line by means of this lash—the fear of being dubbed a “Jack-Mormon”—and made to do yeoman service for the anti-Mormon cause.

The Liberal Party was composed entirely of Gentiles and apostates; for the few Mormons who joined it, either at the beginning or in after years, were looked upon by the main body of the Church as seceders from the faith, whether or not they had been formally excommunicated. As already stated, it was the Godbeite Movement that gave birth to the Liberal Party. It was that movement which furnished the anti-Mormon politicians their opportunity—an opportunity long waited for—to launch upon the sea of Utah politics an opposition to the dominant power which for so many years had sailed that sea alone. In fact it was under the pennon of the Godbeite Movement—though the Gentiles virtually officered and manned the craft—that the Liberal ship was launched. Mormonism at that time was supposed to be crumbling. It was thought by many to have received its death-blow in the “schism” begun by Mr. Godbe and his friends, and it was confidently expected that hundreds and even thousands of disaffected Saints would follow the example of the seceding Elders and rally round the standard that they had raised. Hence, it was believed to be a propitious time to project a political as well as a religious anti-Church movement. So thought the Gentiles of Salt Lake City, who coalesced with the Godbeites for political purposes and formed in the beginning of the year 1870 the Liberal Party. It is believed that the Godbeites were impelled into this coalition by the fear, which proved

to be well founded, that their religious movement, as such, would be a failure; and their "Church of Zion," which had no head, and very little body, being derided by their former brethren and sisters, they resolved to coalesce with the Gentiles in such a way as to make their power, such as it was, more distinctly felt.* At all events, had there been no New Movement, it is very doubtful that the Liberal Party,—though "a manifest destiny" in Utah at some period,—would have been organized so soon. The Gentiles, like the Godbeites, were only a few in number, and both combined were easily "snowed under" at the polls; but owing to the anticipation of an extensive apostasy from Mormonism,—a veritable windfall of souls, who would all be eager to vote against the dominant power,—and the expected disintegration of the Church before the increase of non-Mormon population, and such agencies as the railway, Congressional legislation and perhaps the military power of the Government, the politicians were encouraged to proceed, and the Liberal Party was the result.

It was not until they discovered their mistake, and learned that the defection caused by the Godbeite Movement would be but slight; that the railway and Congress could not be relied upon to work the quick changes desired; that the Government was not going to make literal war upon Utah and thus recommit the Buchanan blunder of 1857; in short, it was not until they found that Mormonism, in spite of all, still reigned among the Rockies,—as securely throned, apparently, as Mont Blanc, "the monarch of mountains," whom

"—they crowned long ago
On a throne of rocks, in a robe of clouds,
With a diadem of snow,"—

* "The Keepapitchinin," a comic paper established by Mr. George J. Taylor, alias "Unohoo," in March, 1870, made much fun of the headless "New Movement." Soon there sprang up an opponent of "The Keepapitchinin," styled "Diogenes," edited ostensibly by Daniel Camomile, an apostate Mormon, but in reality by Messrs. James Bond, John Isaacs and — Coombs, printers at the "Salt Lake Tribune" office. Brigham Young and the Church were the objects of its attacks. Both papers were short-lived, only running for about six months.

that the anti-Mormons, most of whom were willing to take a conservative course at the start, resolved upon another policy entirely, and began a bitter and for the most part unscrupulous warfare against the Saints; a warfare almost without parallel in the annals of political strife, and which, but for the proverbial patience and self-control of the Mormon people,—which many times thwarted the plans of their foes,—would have resulted in a bloody and disastrous war. Such an event would probably have been welcomed by the crusaders, so anxious were they to have Mormonism uprooted and destroyed, and it is safe to say that war would have been the issue of a similar controversy in any other State or Territory of the Union. Of course the anti-Mormons, if left to themselves, could have done but little, but they well knew which side the Nation would be most likely to espouse in case the quarrel came to blows, especially if Gentile blood should be shed, and their version of the affair should go before the country first; as it doubtless would have gone, since the local agency of the Associated Press was entirely in their hands, where it is today. They were willing, therefore, to risk all upon the outcome. But the Mormons, taught by their past painful experiences in Missouri and Illinois, not to play into the hands of the politicians, whose aim, like that attributed to “the gods,” was to “first make mad,” in order to more easily “destroy,” were just as well aware as their opponents of what would follow if they resorted to violence to rid themselves of their aggressive tormentors. They knew that their only safety lay in patience and self-control. Forbearance, therefore, became their motto, and they strove with might and main to govern their tempers and “keep cool,” let their enemies do what they might. They succeeded admirably, though goaded at times almost to desperation by their cunning and conspiring foes, who, failing to incite them to the commission of some overt act that might be heralded abroad as a “Mormon uprising,” as treason and rebellion against the Government, did not hesitate to falsely charge them more than once with doing what their accusers most desired them to do, namely: take up

arms and drive the Gentiles from the Territory.* The Utah anti-Mormons, we say, could have done but little had they been left to themselves. Able and energetic though they were, their numbers, for many years, were far too few to be formidable. But with Congress and the country at their back, in full sympathy with their object, though not all in favor of their unscrupulous methods; with missionary judges and picked juries, and all the machinery of the Federal courts to aid them; with Governors holding the absolute veto power to nullify the acts of the Legislature; with the Utah Commission, registration officers, and a majority of the judges of election all working in their behalf; with the entire control of the Associated Press, whose local agent was always identified with the anti-Mormons and would publish as a fact any falsehood that they desired to fulminate; not to mention their newspaper organ—the *Tribune*—widely read, and, what is more (unfortunate for Utah, believed; with all these and more to assist them, it would have been strange indeed had not the Liberals become, in course of time, an enemy to be opposed rather than despised. Finally, after the lapse of twenty years, during which period all that such agencies could do had been done, in vain, to render the anti-Mormon cause triumphant, the Liberals, under the leadership of a shrewd and unprincipled politician, accomplished by fraud what they had failed to achieve in two decades of almost constant plotting and toil. How they ran foreign voters into the Territory, registered them as *bona fide* Utah citizens, herded them like cattle to the polls, and by such “majorities” seized the reins of government in Ogden and Salt Lake, the two principal cities of the Territory, and reveled in extravagance, official corruption and social debauchery, until all good citizens,

* This trick was resorted to as late as July, 1885, when President Cleveland was so far imposed upon by the Utah conspirators, with Governor Eli H. Murray at their head, that he ordered troops to the Territory to suppress “a Mormon insurrection,” which had no existence whatever. The President was greatly chagrined on learning the truth, and it was this act with others equally inexcusable that cost Governor Murray his official head.

Gentiles as well as Mormons, were disgusted, and entered more than one emphatic protest against Liberal misrule, cannot now be dwelt upon. At the time of this writing—August, 1892—the Liberal Party seems doomed. The People's Party having disbanded, polygamous marriages in Utah having ceased, and most of her citizens, Mormons and Gentiles, having divided on national party lines as Democrats and Republicans, it has nothing but malignity and dead issues to subsist upon, and there is no longer any excuse for its existence. Most of its leaders and the better class of its members have left or are leaving it. There is a remnant, however,—office-holders, unrelenting apostates and the "riff-raff" or mobocratic element,—that will probably "die hard," clinging tenaciously to the power that they have so misused, and to the purse-strings of the municipality which their extravagance has well-nigh bankrupted. There is a very general desire on the part of reputable citizens, Republicans and Democrats alike, to hurl from office and authority the corrupt and useless Liberal Party—an act already accomplished at Ogden—and inaugurate in Utah's chief city a real reform; such as was promised, but never performed, by the tyrannical and illiberal faction—illiberal in spite of its name—which has misgoverned, since the spring of 1890, the municipality of Salt Lake.

In the foregoing arraignment of the Liberal Party, we do not of course mean to include all its members. It is only to a certain class that these strictures will apply. Many of the Liberals were high-minded and honorable gentlemen, who, while having no love for Mormonism, and anxious to see it suppressed, would not stoop to the trickery, hypocrisy and dishonesty of those with whom, from sympathy with the main object in view, or from sheer force of circumstances, they were induced to co-operate in a common cause. Neither would we harshly criticize the masses of the Liberals, many of whom were good, honest people, sincere in their convictions, but mostly deceived by misrepresentation, and their prejudices played upon by their scheming and unscrupulous leaders. Some of the

chiefs, however, were as reputable and respectable as others seemed totally unprincipled. It was a strange mixture, this political pot-pourri; this medley of anti-Mormonism. The Liberal Party of Utah, like the Anti-Mormon Party of Illinois—to repeat what we once said concerning the latter organization—in its palmy days answered far better than did Sir Francis Bacon, Pope's caustic description of England's great Lord Chancellor—"the wisest, brightest, meanest of mankind."

This leads to a few words more respecting the antecedents and components of the Liberal Party. In previous chapters of this history it has been shown that it was always a pet scheme with certain persons who came to this Territory, as civil or military representatives of the Federal Government; as commercial men, contractors and speculators, interested in the material development of the country, or as mere roving adventurers, expelled literally or by force of public opinion from other places and in quest of "greener fields and pastures new," wherein to feed and fatten at the expense of their betters, to disrupt the general condition of things here existing, and institute radical changes in the social, political and even religious affairs of the people. The better class of these would-be reformers, those who have had it in their hearts to benefit the Mormons, whom they believed to be misguided and enthralled, have only favored legitimate agencies and methods, such as Congressional legislation, and the operations of courts, schools, churches, missions, newspapers, etc., to effect the desired changes. But another class, who, however sincere in their wishes to work a transformation, can scarcely be regarded as real reformers, have actually advocated such agencies as the drinking saloon, the gambling house and the brothel, to seduce the young Mormons from the faith of their fathers, and have openly exulted at the prospect of morally ruining in order to "reform" the rising generation of Utah. The author will blame no one for doubting this statement until he has read the following extracts from an editorial article in the Salt Lake *Tribune*—the organ of the Liberal Party—of March 6th, 1881:

WHAT UTAH WANTS.

Apropos of the new and petty war recently started by the municipal government on the women of the town, the liquor dealers and the gambling fraternity, one of the 'enemy' said to us the other day: "It may be a hard thing to say, and perhaps harder still to maintain, but I believe that billiard halls, saloons and houses of ill-fame are more powerful reforming agencies here in Utah than churches and schools, or even than the *Tribune*. What the young Mormons want is to be freed. So long as they are slaves, it matters not much to what or to whom, they are and they can be nothing. Your churches are as enslaving as the Mormon Church. Your party is as bigoted and intolerant as the Mormon party. At all events I rejoice when I see the young Mormon hoodlums playing billiards, getting drunk, running with bad women—anything to break the shackles they were born in, and that every so-called religious or virtuous influence only makes the stronger. Some of them will go quite to the bad, of course, but it is better so, for they are made of poor stuff, and since there is no good reason why they were begun for, let them soon be done for, and the sooner the better. Most of them, however, will soon weary of vice and dissipation, and be all the stronger for the knowledge of it and of its vanity. At the very least they will be free, and it is of such vital consequence that a man should be free, that in my opinion his freedom is cheaply won at the cost of some familiarity with low life. And while it is not desirable in itself, it is to me tolerable, because it appears to offer the only inducement strong enough to entice men out of slavery into freedom."

The *Tribune's* comments on the above were as follows:

Freedom is the first requisite of manhood, and if it can be won without excesses so much the better. If it can't, never mind the excesses, win the freedom. It is not you who are responsible, when it comes to that; it is those who have enslaved you. Who is the national hero of the yeomanry of England but Robin Hood, "waging war against the men of law, against bishops and archbishops, whose sway was so heavy; generous, moreover; giving a poor, ruined knight clothes, horse and money to buy back the land he had pledged to a rapacious Abbot; compassionate, too, and kind to the poor, enjoining his men not to injure yemen and laborers, but above all rash, bold, proud, who would go to draw his bow before the sheriff's eyes and to his face; ready with blows, whether to give or take."

* * * * *

Read the first chapter of Book Two of Taine's English Literature, if you would see what ails Utah, and what it needs as a medicament.

To vent the feelings, to satisfy the heart and eyes, to set free boldly on all the roads of existence, the pack of appetites and instincts, this was the craving which the manners of the time betrayed. It was 'merry England,' as they called it then. It was not yet stern and constrained. It expanded widely, freely, and rejoiced to find itself so expanded.

* * * * *

Let the people of Utah rise out of the dust, stand upright, inquire within, lean on themselves, look about them, and try in a large way to be men, as they were born to be.

Let them know nobody more puissant than themselves. What is a game of billiards, a glass of beer, a cup of coffee, cigar, or other petty vice, in the span of a strong human life, filled with endeavor in the right direction? The Territory, like the rest of the land, is still in its infancy, still in the pulp of babyhood. It has yet to be made. There is work for men, whose first and last quality is strength, manliness. The day of trifles, and of crouching and cowardice, of criminal surrender to the first howling dervish who calls himself a priest and presumes to speak in the name of the Almighty, has lasted long enough. Let a new era dawn in which men shall dare to be men.

An object in view with both classes has been to wrest the control of the Territory from the hands of its founders, the Mormon people, who have always been in the overwhelming majority, and the vesting of that control in the local Gentiles, a small minority; not merely for purposes of private gain—though that has been the principal aim with many—but to limit if not to destroy the power of Mormonism. The latter has undoubtedly been the object with the better class of the opponents of the system, as well as the purpose of the general government. To this fact, and this alone, may properly be attributed nearly all the troubles and turmoils that have afflicted Utah from the beginning.

Almost from the first such persons as those described, good men and bad, all bent upon one purpose, have worked in the very midst of Mormonism for its overthrow; and have done so for the most part with perfect impunity, notwithstanding the assertions of those, who, while spreading far and wide the report that Gentiles could not live in Utah, especially Gentiles who were unfriendly to the Saints, have themselves furnished proof of the falsity of their statement, in continuing to reside here unmolested, though daily and hourly maligning and planning against the peace and welfare of the people. Such men, and some who were their superiors in every respect, have encouraged and assisted in the introduction of schisms into the Mormon Church, the formation of opposition parties in local politics, the establishment of newspapers having as their chief aim—next to money-making—the suppression of Mormonism, and the scattering abroad by means of the press, or by private letters and telegrams, all kinds of false reports concerning its votaries. Many Christian

ministers have assisted in this work of misrepresentation. Some of the official class have also used the powers and functions of their offices to the same end, and, carried away by excess of zeal, have halted at little or nothing to accomplish their object,—the insertion of some sort of entering wedge into Mormonism, that would split and divide the system and destroy it. That this has been the real purpose, waiving all plays on words, or at any rate that this would have been the result of perfect success in the plans set working, it would be vain to deny; though innumerable have been the protestations to the contrary. Some have said that it was only Brigham Young and the one-man-power that they opposed; some that it was polygamy and that alone that they wished to see put down; others, that it was the union of church and state they were fighting, and that polygamy was a mere bagatelle, a trifle for which they cared nothing, compared with the influence wielded by the Mormon Priesthood in politics; while others still complained of the unity and exclusiveness of the Saints, and of the general aggrandizement and domination of the Church in temporal things. It is idle to bandy words in such a case. What was wanted was the emasculation if not the destruction of Mormonism. That its total annihilation was desired by many,—who have shown by their acts to this day that nothing less than that would satisfy them,—there is no room for doubt or reasonable denial.

Now the Mormons, as is well known, fled from the confines of civilization and made their home in the wilderness, in order to find peace, which they could not find elsewhere; to secure the privilege of practicing their religion unmolested; to have liberty to work out their peculiar social problems—hurtful if at all to none but themselves, and hurtful not at all according to their faith and experience; to found a commonwealth where they might elect their own rulers, make their own laws and be free from the political corruptions and social evils that prevailed in other places. Such was their purpose in settling and colonizing these desert vales of the Rocky Mountains, having first suffered untold hardships in getting here, to say nothing

of their previous history written in their own blood and tears, and in those of their persecuted and murdered co-religionists. Small wonder, therefore, that they should regard with a jealous eye those encroachments that threatened to overthrow and bring to naught their plans for peace and freedom; to introduce into their community strife and division from which they had before suffered so severely; to foster among them drunkenness, prostitution and kindred evils which they so dreaded, and in short bring to their doors all the ills, to escape which they had fled from society, from civilization, and placed a thousand miles of barren plains and bleak mountains between them and its western frontier. They could scarcely be expected to smile approvingly on and applaud the efforts of those whose avowed purpose, if not to destroy them personally, was to destroy that which they held most dear, and desecrate what they deemed sacred and divine. All that could reasonably be required of such a people under such circumstances would be patience, self-control and legitimate effort to prevent their enemies from accomplishing their designs. That the Mormons have succeeded, better than most people would have done, in restraining themselves under as high pressure as ordinary mortals are ever subjected to, fighting their foes as a general thing only on fair and legitimate lines, none cognizant of their history can conscientiously deny.

That many, perhaps most of those who have opposed the Saints have been sincere in their opposition, and impelled more or less by principle, and not entirely by passion, self-interest and sordid calculation, is not questioned. Some of them, undoubtedly, have been pure-souled patriots, genuine reformers, who believed that in fighting Mormonism they were striving to put down tyranny, treason and licentiousness. Aside from this error—for it is an error—their only mistake has been in the adoption at times of means for its suppression that were outside the pale of justice and propriety. “The end justifies the means”—a Jesuitical doctrine as dangerous as it is daring—has been their rule of conduct in such cases, and failure, as

often as success, has resulted from the pursuit of this perilous policy. But others who have gone hand in hand with these high-minded characters—so far as the latter would permit them—who have fought under the same banner and partly for the same purpose, have had no such honorable motive. Among these are the adventurers referred to, selfish schemers, dishonest demagogues, social pirates, pelf and place hunters, panderers for hire to the prejudices of those more sincere in their hatred and hostility toward the Saints.

True, even these have professed patriotism,—in fact they have arrogated to themselves about all the patriotism that the land contained, and have vociferated their desires to reform and regenerate the Mormon people; a community as far above them in innate loyalty and moral worth, in spite of every fault, as their own professions have been superior to their practices. Like Satan, quoting scripture to the Son of God, in order to convince Him that He ought to dishonor Himself, they have tried to persuade the youth of Utah to cast themselves down from the moral pinnacle on which they stood and show themselves free and liberal by wallowing in the filth and mire so congenial to the tastes and habits of their tempters. It is painful to add that some young Mormons, and others not so young, have listened to the siren voice of these seducing spirits—who were always a disgrace to their party, or to the better portion of it—and have become as loosely “free” and as licentiously “liberal” as their depraved “reformers” could desire.

We do not mean to say that all the fault for all the evil that has occurred in Utah has been on one side. That the Mormons have always been right and never wrong, no one acquainted with the facts and wishing to be truthful would care to maintain. The Mormons have been accused of tyranny and oppression. That some of them have been guilty of the charge is quite probable. It is natural for some men to be tyrannical and to oppress their fellows, particularly if they themselves have been oppressed. Persecution alone never teaches men to be tolerant. It is pure knowledge or the Spirit of God that does that. That some Mormons have oppressed

some Gentiles in Utah, just as some Gentiles oppressed the Mormons in Missouri and Illinois, we verily believe, and in both cases, perhaps, they thought they were doing God service. Moreover we think we could show that Mormons have oppressed Mormons, and Gentiles, Gentiles, if we cared to extend the argument. These things are inherent in human nature. Every Mormon accepts as true that saying of Joseph Smith's: "We have learned by sad experience that it is the nature and disposition of almost all men, as soon as they get a little authority, as they suppose, they will immediately begin to exercise unrighteous dominion." And the law of retaliation, the law of Moses, is stronger than the law of Christ, the gospel of love and forgiveness, in the "members" of "the natural man." There is no doubt that some Mormons have made enemies among the Gentiles and among their own people, by tyrannical or selfish acts, and have justified by such conduct much of the ill feeling that has resulted. But why make a whole community responsible for the misdeeds of certain of its members? Some Mormons have done worse than to oppress; they have committed heinous crimes, and those crimes have been chronicled and published by Mormon pens and prints, and their perpetrators, when known, held up to deserved odium and detestation. That some of the leaders of the Saints in warlike times, and under the influence of the excitement of such times, have uttered sentiments which, reproduced by an enemy and all extenuating circumstances hidden or held in the back-ground, seem to smack of disloyalty and defiance to the Government, is also true. Nor is it denied by the Mormons, however deeply deplored, that among their men and women—let only the guiltless of their accusers cast stones—occasional instances of immorality and unchastity have been found. But that the Mormon people, as a people, with their leaders, are a tyrannical, a treasonable, a murderous or a licentious community, or that their religion tends to make them so, is not true. It is a slander as foul and false as the souls of those who, knowing it to be such, have nevertheless sent it broadcast to deceive the world, embitter public

opinion and subserve private and political purposes against the people of Utah.

The first man on record to advocate party divisions in this Territory was Judge Perry E. Brocchus, who made that theme a portion of his peculiar harangue at the Mormon conference at Salt Lake City, in September, 1851. Of course he had a perfect right to his views upon the subject, though a religious meeting, to which, by courtesy of President Young, he had been invited to speak at his own request upon an entirely different topic, was hardly the proper place to express them. Little attention, however, was paid to that part of his address; the insulting portion of it—a reflection on the chastity of the Mormon women and the patriotism of the Mormon men—causing his indignant hearers to temporarily forget all else that he said. The chief objection of Judge Brocchus to the unity of the Mormons—which he wrongly attributed to the personal influence of Brigham Young—and to their voting solidly at elections, was probably the fruit of the disappointment that he felt at not securing that vote for himself as Delegate to Congress from the newly created Territory. It is a singular fact that no man has ever objected to the unity of the Mormon vote, if that vote were cast for him, or in the interest of himself and his friends. It is the solid voting of Mormons for Mormons that has constituted the main objection; that has been deemed “un-American,” “Asiatic,” “despotic,” and all that. Still, Judge Brocchus should have all the credit for disinterestedness that he deserves. He may have wanted to see, as other Federal officials—whose sincerity we do not question—have since, party divisions in Utah for other than personal reasons.

Many of his class, after that day, took up the same refrain, and endeavored to convince the Mormon people that it was better to be divided than united in political matters. But the latter were not convinced by the logic of such an argument. They did not see how they could be divided in politics and united in religion at the same time, and deeming unity essential to their safety, feeling as they did that the whole outside world was against them, and having nothing

to quarrel over or be divided upon, as they saw eye to eye with each other in most things and were beyond the pale of participation in national politics, they were unable to appreciate the reasoning of their would-be mentors. They therefore remained united, believing that by unity alone could they prevail and succeed in "building up the Kingdom of God." And here, in the eyes of many of the Gentiles, was their chief crime. It was this "anomalous condition," this "un-American state of things," this ambition of a united religious community to found a spiritual empire within a temporal republic—*imperium in imperio*—together with misrepresentations, prejudices and personal disagreements, that caused the original dislikes and alienations between Mormons and non-Mormons in Utah. Out of such differences grew the conspiracy of Messrs. Drummond, McGraw and others, resulting in the "Buchanan war" of 1857, which united the Mormons more effectually than ever. Then came the great Civil War, "the War for the Union," a war to prevent the nation from dividing and separating, and the Saints thought they saw in this a grand illustration and vindication of their position, expressed in the legend: "United we stand, divided we fall."

It has been seen how General Connor, when he came to Utah—General Connor, by the way, is styled "the father of the Liberal Party,"—sought to change the existing political condition; not by dividing the Mormons and arraying them against each other, which he doubtless saw was next to impossible, but by inducing Gentile immigration into the Territory, for the purpose of "overwhelming the Mormons by mere force of numbers" and "wresting from the Church—disloyal and traitorous to the core—the absolute and tyrannical control of temporal and civil affairs." He also aimed, it is believed, at the establishment of a military dictatorship, with himself in supreme command, pending the proposed reconstruction of Utah at the ballot box. That he was heartily in accord with Governor Harding and Judges Waite and Drake in their efforts to procure an act of Congress which would have accomplished about the same result, has already been shown. But these plans all failed.

General Connor and his coadjutors, however, succeeded in dividing, more effectually than ever before, the Utah Gentiles from their Mormon neighbors, thus paving the way for the organized division that followed. Hence his surname in later years: "The father of the Liberal Party." Much of what was left undone in this direction was accomplished by those lamentable tragedies, the Brassfield and Robinson murders; particularly the latter, which the Mormons regretted quite as much as the Gentiles, and certainly suffered far more seriously from its effects. Then came the adoption of President Young's commercial policy toward the anti-Mormon merchants and business men—a policy deemed necessary as a measure of self-defense—and the breach between the two classes of the community was almost complete.

It is evident that Speaker Colfax and other influential men who visited Utah prior to the advent of the railway, hoped much from the mining movement begun by General Connor and his associates, as a means of settling the Mormon question. This is apparent from the tenor of their remarks at the time, as well as from the interest manifested by them in the development of the ore-producing industry. But it was soon found that the Utah mines could not be worked to advantage without railways, and that instead of there being a permanent increase in the Gentile population, as the result of that movement, even the few miners who had come to the Territory were leaving in despair after bankrupting themselves and the capitalists who had furnished them with means to engage in the unprofitable undertaking. Then it was that the railway—approaching from two directions the Great Salt Lake—was regarded by the Gentiles as the destined regenerator, and its advent awaited with impatience by those who thought that Mormonism must surely succumb before the inroads of the iron horse and all the influences that followed in its train.

Some of the foes of the system, however, were not so sanguine of such a result, or else were unwilling that there should be a peaceable settlement. To these may be attributed the anti-Mormon

measures introduced into Congress shortly before and soon after the completion of the Pacific Railway. Vice-President Colfax himself seems to have been skeptical as to the power of the railway, unaided by "the strong arm of the Government," to destroy Mormonism. At any rate he was manifestly in favor of a speedier solution of the problem than the one promised by the locomotive, and it is doubtful that even the Godbeite Movement, notwithstanding the claim of its representatives, caused him to change his mind much as to the heroic treatment that he deemed necessary in the premises.

Coming now to active political effort on the part of the Gentiles of Utah. It was early in 1867 that they placed their first candidate for office in the field. The Liberal Party was not yet organized, but the elements that were destined to compose it were almost ready to blend. The candidate's name was William McGrorty, a local merchant. He seems to have been one of those transients who from time to time have drifted into the Territory and out again, only tarrying as long as it was made worth their while to do so, by some such scheme as that which he was induced to engage in. McGrorty at first professed great friendship for the Mormons, attending their meetings and fawning upon them, they claim, almost obsequiously. But the leaders regarded him as a hypocrite, who was seeking to attain some private end. Finally, on discovering that they had no confidence in him, and that he would be unable to gain his point, he straightway began to plot against them. The first part of his plan was perfectly legitimate. It was to run for Congress, as Delegate from this Territory, in opposition to Hon. William H. Hooper. Of course he did not expect to carry the election. There was not the shadow of a hope in that direction. But he knew that a few votes would be cast for him, and he could then take his case to Washington and there contest on various grounds the seating of the re-elected delegate. Whether this was the pre-arranged program, or whether the original purpose was merely the leading of a forlorn hope against Mr. Hooper, with a view to forming the nucleus of an opposition party, we are not aware. Anyhow a number of Gentiles

entered into the scheme, and lent their assistance toward making it a success. Among these was C. B. Waite, ex-Associate Justice of Utah, who became McGroarty's attorney in the contest that followed, and helped him to prepare the argument with which he went before the Committee on Elections of the House of Representatives. The "argument" consisted almost entirely of anti-Mormon tales, told since the days of Far West and Nauvoo; accounts of alleged atrocities by the Mormon Church, including, of course, the Mountain Meadows massacre; extracts from old Tabernacle sermons, such as agitated His Honor, Judge Anderson, in later years, but did not affect in the same way the Minneapolis and Chicago conventions; with affidavits of apostates and selections from their published works.

The election occurred on the 7th of February. Mr. McGroarty received a little over a hundred votes—many if not most of them in the Rush Valley Mining District—while for Captain Hooper upwards of fifteen thousand ballots were cast. Nevertheless McGroarty went to Washington and contested Hooper's claim to a seat in the House of Representatives. For some reason he allowed almost a year to elapse after the election before he began his contest. It was not until January 18th, 1868, that he filed with the Committee on Elections, to whom the matter had been referred, his printed brief, accompanied by a voluminous mass of documents in support of the allegations therein contained. Besides the statements already mentioned there were affidavits from one Smith and a Mrs. Williamson to the effect that the Mormon people were required by a rule of their Church to take an oath inconsistent with their duties as loyal and law-abiding citizens of the United States, and implying that Captain Hooper had himself taken such an oath. There was also an allegation that in some of the voting precincts of the Territory the election had been conducted irregularly; and then came McGroarty's own affidavit, giving as the reason for his delay in beginning the contest, that he had been fearful of personal violence from the hands of the Mormons.

Captain Hooper in his reply held that McGroarty was "not lawfully in court." He refused to recognize him as a legal contestant, since he had failed to comply with the law of Congress regulating contested elections, which required notice of contest to be filed within thirty days after the result of the election had been officially ascertained, and he entirely ignored the sensational tales that formed the principal portion of the complaint. The Captain gave as his reason for not answering the allegations based upon the extracts from early Mormon sermons, etc., that "to have entered into a refutation of these calumnies, which can be done by the same authorities from which contestant has selected his extracts, would have been an acknowledgement of the right of contestant to have had the committee act upon and decide this case upon the mere *ex parte* statements of contestant, his counsel and his friends, thereby disregarding every principle of law, as well as the rules and statutes regulating the production of testimony." Mr. Hooper denied taking any oath of the kind alleged by the affiants Smith and Williamson, and denied also that the Mormon people were required to take any such oath. He submitted affidavits from Colonel F. H. Head, Superintendent of Indian Affairs; Hon. Amos Reed, late Secretary and acting-Governor; Hon. Solomon P. McCurdy, Associate Justice, and Hon. Frank Fuller, late acting-Governor of Utah, with statements from forty-one other non-Mormon citizens, leading merchants, bankers and business men of Salt Lake City, all refuting McGroarty's assertion that had he begun his contest earlier he would have been in danger of personal violence from the Mormons; and stating that he could have done so with perfect safety at any time after the election. They also declared that the fullest freedom and expression of opinion was indulged in and tolerated in Utah; that McGroarty himself, prior to leaving the Territory, had publicly announced often and repeatedly on the streets of Salt Lake City that he was contesting the seat of the sitting delegate; and that he had not been molested in any manner on account of said announcement. As to alleged irregularities in the election, Mr. Hooper

answered: "Should the vote of the two whole counties in which the precincts are located be rejected, the sitting Delegate still has over twelve thousand majority, and McGrorty but sixty-four votes; these being the only two counties in which *ex parte* statements have been taken as to irregularities, and the evidence is not sufficient as to these."

The Committee on Elections having rendered their report, the House, late in July, 1868, unanimously adopted the same, refusing to admit Mr. McGrorty to a seat in that body as a delegate from Utah, and deciding that Hon. William H. Hooper had been elected to the office and was rightfully entitled to the seat he was then occupying.* And so ended the first attempt of the Utah anti-Mormons to thwart the will of the majority of her citizens, as expressed at the polls.†

* The Committee on Elections in this case, in answer to the question: "Has that power [Mormonism] been hostile to the Government of the United States," replied: "It is and has been hostile rather from the inherent spirit of its creation than from any design on the part of the people." Stenhouse makes a similar statement in his "Rocky Mountain Saints." According to him, it is only the creed of the Mormons that is disloyal, and not the Mormons themselves. In the same sense Christianity is disloyal, or any other religion that acknowledges God as the King of heaven and earth.

† Mark Twain, in a letter to the San Francisco *Alta* some time after the close of the Utah contest, dilated thus humorously upon McGrorty and his fortunes: "Where is McGrorty? But perhaps you don't know McGrorty. McGrorty was a great man once—but that was some time ago. It was when he ran for delegate from Utah against Mr. Hooper. Somebody told him to buy a barrel of whisky and run against Hooper—and told him whisky was as good as talent, as long as he could get the one and hadn't the other, and McGrorty did it. He ran against Hooper, he treated the Saints and the Gentiles, he made the best fight he could—and didn't win. He came near it though. He got 105 votes and Hooper himself only got 15,068. There was really only a difference of 14,000 and some odd. A negro called "Cy" got the rest of the votes—six. Hooper was declared elected and McGrorty was advised to contest the election—which he did; but he failed to give notice of his *reasons* within thirty days (as provided by a Congressional law) and that made his contest null and void, properly. Still when a man comes near being great—comes as near as McGrorty did—comes within fourteen or fifteen thousand of it—it isn't in human nature to give it up. And so McGrorty infested Washington all last winter trying to get his dispute before the House of Representatives, but it wasn't any use. Congress was a conniver at all manner of inhumanity, and was only glad of a chance to keep this light out now that it was put out. Congress said,

From the first election in Utah until early in 1867, there had always been an interregnum of several months when the Territory was without a delegate to represent it in Congress. This interval was from the 4th of March in the odd years, when each Congress expires, until the first Monday in the succeeding August, when the local election took place, so that in case of an extra session between March and August of the odd years the Territory would have been unrepresented. To obviate this deficiency a law, already referred to in a previous chapter, was passed and approved January 10th, 1867, enacting that the election of a delegate to represent the Territory in the Fortieth Congress should be held on the first Monday in February, 1867, and that the delegate for the Forty-first Congress should be elected at the general election on the first Monday of August, 1868, said general election to occur biennially thereafter, the delegate thus being chosen several months in advance of the expiration of his predecessor's term. At the February election, 1867, as before stated, Hon. William H. Hooper was again chosen—over Mr. McGrorty—to represent the Territory at Washington. He

send along the negro—let 'Cy' have a show—out with the Milesian Gentile! This after he had got his speech all ready for the floor of the House! It was particularly mean of Congress to do such a thing at *such* a time, because the speech had to be inflicted on somebody, and so McG. went around Washington all last winter reading it to everybody he could catch in a close place. People were driven crazy by it—people shot each other on account of it—thousands and thousands of suicides resulted from it. McGrorty ended by going crazy himself, I heard, though many said he was crazy enough in the first place to make a good member of Congress. But they didn't take him in. That is what I am quarreling about. They left his light to shine under a bushel—never saw a bushel in such a shape that a light could shine under it, but suppose it possible, nevertheless—they left his light to shine that way, merely because he didn't have 15,000 votes instead of Hooper. That sort of mean partiality is a thing I despise. And so McGrorty was lost to the nation. What makes me enquire about him now, however, is that rumor has reached me from a friend in Washington that Mr. McGrorty is going to run on the Democratic ticket for Congress in California, and I thought that if I could help him to a vote or two, in memory of that speech of his, it would be as little as one of the few survivors of it could do. I feel grateful, and so long as he is running for anything anywhere, I am ready to help him along, and whenever he has got a fresh speech, and is reading it, I will wade right through the midst of his dead and dying to hear it. Count on me, McGrorty."

was also elected to the Forty-first Congress, in August, 1868, this time without opposition.

But it was now the beginning of the year 1870; the Godbeite Movement had taken place; the Mormon Church, though in reality never stronger, was supposed by many to be tottering to its fall, and the political coalition between the dissenting faction and the Gentiles, was just about to form.

In January of this year the Godbeites established at Salt Lake City a weekly paper called *The Mormon Tribune*. It was designed as the organ of the "New Movement," and indeed was no more nor less than the *Utah Magazine* transformed. Its publishers were William S. Godbe and Elias L. T. Harrison; the latter and Edward W. Tullidge being the editors. Eli B. Kelsey was business manager of the concern, but he soon retired to devote himself to mining matters, and was succeeded by William H. Shearman. Mr. Tullidge, after a few months, also parted company with the *Tribune*.

So long as the gentlemen named had control of the journal, it was high-toned and conservative, though not lacking in vigor, and expressing itself in plain terms regarding the acts and utterances of the Church which had excommunicated its editors and their associates. Its policy then was to persuade, to reason with and convince by argument those who differed from it, and to treat with due respect those whom it did not succeed in converting; giving them the same credit for sincerity as it claimed for itself and its supporters. But when it passed, as it soon did, from their hands to those of their political allies, the anti-Mormons, and the latter had resolved upon their "war to the knife" policy against Mormonism and its adherents, the *Tribune* became a bitter and most abusive sheet. Its only principle, apparently, was hatred of everything Mormon, in pursuance of which it spared neither age, sex nor condition; emptying the vials of its venom upon all who dared to differ from it, misrepresenting their motives, assailing their characters, and libeling and lampooning both the living and the dead. Its columns were not only filled habitually with falsehood, but often with vulgar and obscene scandals. Many

who helped to sustain the paper, either from sympathy with its assaults upon Mormonism, or from fear of being abused by it and called "Jack-Mormons" if they withheld their support, were careful to have it delivered at their down-town offices, and would not have it in their homes for their wives and daughters to read, so filthy at times were its contents. The Nauvoo *Expositor* was holy writ compared with the Salt Lake *Tribune*. It was so styled after it ceased to represent the "New Movement," which soon perished, and became sheerly an anti-Mormon sheet. It was ably edited from the first and being, as before stated, widely read, did much to injure Utah and her people abroad. Its publishers took pains to send it for free distribution wherever Mormon missionaries were laboring, and one of its issues, containing a foul and shameful libel upon the Mormon people, is believed to have caused the brutal massacre of two Elders from Utah by an infuriate mob in the backwoods of Tennessee.* The *Tribune* attained to much potency, and among anti-Mormons in general great popularity, during the editorship of Mr. Fred. Lockley, an able journalist from Kansas, who, with Messrs Prescott and Hamilton, two other experienced newspaper men, also from that State, took charge of its publication early in the seventies. Brilliantly edited, prosperously conducted, and having the enthusiastic support of the Gentiles, particularly at Salt Lake City and in the various mining camps, as well as in other States and Territories, it was probably

* We refer to the notorious "Red-Hot Address," a pretended stenographic report of remarks alleged to have been made by "Bishop West," at Juab, Utah, on March 9th, 1884, "reported by Tobias Tobey for the Salt Lake *Tribune*." In the address "Bishop West" was represented as counseling his congregation to assassinate Governor Eli H. Murray, the Gentile Executive of Utah, and wage an exterminating warfare upon non-Mormons generally. The whole thing was a sensational slander manufactured for effect. Not only was there no "Bishop West," in the Mormon Church at that time, but it was conclusively shown that no meeting was held at Juab on the date given—the Sabbath—as a washout had occurred at or near the settlement and all hands were busy controlling the angry waters. The *Tribune*, being cornered, claimed to have been imposed upon by its correspondent, the mythical "Tobias Tobey," but the "Bishop West" libel was only one of many such published by that paper to subserve the anti-Mormon cause.

never more abusive or worse in its morals than then. This was more noticeable in the local than in the editorial columns; for Lockley, it is said, was designed by nature for a gentleman, but he fostered under him a set of writers—some of them apostate Mormons—whose virulent and oftentimes brutal effusions almost warranted the charge made against the paper at this period that “Kansas border ruffians” were its editors. Bright and newsy as were its pages, much of it was that sort of “news” that no decent journal ever publishes, and which none but vulgar and vicious minds care to peruse; being chiefly composed of salacious gossip and slanderous abuse of men and women in public and private life. Everything that the Mormons held sacred was derided, burlesqued and defamed. Their Sabbath services were misrepresented and reproduced in travesty; the rites of their Temples—as sacred to them as the mystical ordinances of Free Masonry to its votaries—revealed by apostates, were regularly ridiculed and blasphemed; while the utterances of their preachers were twisted and distorted out of their real meaning and made to imply treason, rebellion, or whatever the *Tribune* desired. The Mormon women, among the most virtuous and modest of their sex, were commonly classed with prostitutes, and referred to as mistresses, procuresses, “old hens,” “conks,” or concubines; and for the Mormon men, especially those having more than one wife—from “thick-necked polyg” to “mid-night assassin,” no epithet was too vile in the eyes of the Salt Lake *Tribune*. When expostulated with upon their course and asked why they were not more decent and gentlemanly in their opposition, the editors were wont to reply that decent language would not do justice to the subject they assailed, and that it would be time enough to be gentlemen when Mormonism was put down and the war they were waging was over. This caused a writer in the Salt Lake *Herald*—the *Tribune*’s main opponent at that period; the *Deseret News* utterly ignoring its existence—to impale it in this manner, in the closing lines of a satirical poem on the *Tribune* and its scribes:

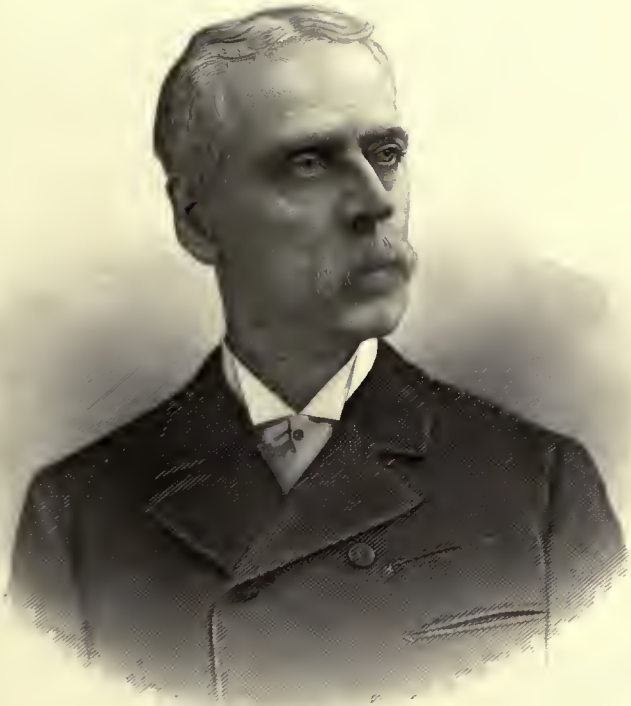
This is the press gang, rogue type, liar's file,
 Who say, "We will be gentlemen after awhile."
 And, after all, the sequel may be so,—
 Old Nick is called "the gentleman below;"
 And if he ever comes to claim his own,
 The *Tribune* outfit will "vamoose the town,"
 To join this "gentleman," in force to swell
 The long-tailed aristocracy of hell.

A great change, and one decidedly for the better, came over the *Tribune* when Mr. Lockley and his associates severed their connection with it. This, however, was partly due to the fact that the more respectable portion of its readers had grown weary of its ceaseless anti-Mormon tirades, and the better element among the Gentiles desired a change. Today, though fighting Mormonism as fiercely and sometimes as unfairly as ever, the *Tribune* is much more conservative than it once was, and does not admit into its columns the filthy scandals that disgraced it formerly. Much of this gratifying reform is probably due to the presence on its staff of Judge C. C. Goodwin, the editor-in-chief, a brilliant journalist, and one of national repute. He is a native of the State of New York, but came to Utah from Nevada in 1880. The *Tribune* is a very influential journal, and unquestionably a bright and breezy newspaper. It has been from the first the organ of the Liberal Party, and is a leading authority on mining matters throughout the interior West.

Of its equally able and always reputable opponent, the Salt Lake *Herald*, surnamed the "Giant of the Rockies," and today the leading Democratic paper of the inter-mountain region, we shall only say here that it was founded in June, 1870, by Edward L. Sloan and William C. Dunbar; the former—a genius among journalists—being its editor, and the latter, also a genius in his special line—theatrical comedy—the business manager. The *Herald* took the place of the *Daily Telegraph*—Mr. Stenhouse's paper—the publication of which had been suspended. The latter, just before the completion of the Pacific Railway, had removed to Ogden, but after a brief career in the Junction City returned to Salt Lake. Mr. Stenhouse then

retired from its editorial management and proprietorship, and being purchased by Dr. Fuller, of Chicago, the *Telegraph* during its last days was edited by E. L. Sloan, subsequently the founder of the *Herald*. The present editor of this paper, who has been connected with it almost from the beginning, is Byron Groo, Esq. He wields a trenchant pen, is fearless in spirit, a staunch Democrat, a genial gentleman, and a man of recognized ability and good judgment. Of this able and powerful journal, the Salt Lake *Herald*, and of Utah's newspapers in general, more anon.

The Liberal Party came into existence early in February, 1870, just prior to the regular biennial election of the Salt Lake City government. The first formal step toward its organization was taken on the 9th of that month, at a meeting of non-Mormons—Gentiles and Godbeites—held in the Masonic Hall, East Temple Street. Eli B. Kelsey was chosen chairman, and speeches were made and plans formulated for the municipal election, it being the purpose of the Liberals—though that name had not yet been adopted by them—to put an independent ticket in the field in opposition to the People's Ticket. A central committee was appointed to serve for one year. Its members were J. M. Orr, J. R. Walker, Joseph Salisbury, T. D. Brown, James Brooks, Samuel Kahn and R. H. Robertson. A ticket for city officers was nominated by acclamation. It was as follows: Mayor, Henry W. Lawrence; Aldermen, First Municipal Ward, Samuel Kahn; Second, Joseph R. Walker; Third, Orson Pratt, Jr.; Fourth, Edwin D. Woolley; Fifth, James Gordon. Councillors, Nat. Stein, Anthony Godbe, John Cunnington, John Lowe, Marsena Cannon, Fred T. Perris, Dr. W. F. Anderson, William Sloan and Peter Rensheimer. Recorder, William P. Appleby; Treasurer, B. G. Raybould; Marshal, Ed. Butterfield. Some of these nominees were Mormons, "firm in the faith," the presence of whose names on the "Independent Ticket" is explained by the fact that it was the hope of the managers of the new party to draw by this means many votes from the ranks of the opposition. The personal popularity of Henry W. Lawrence, the candidate for Mayor, who, before his apostasy, had



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been held in high esteem by the leaders and members of the Mormon Church, was also relied upon to do much in the same direction. These matters being arranged, the meeting adjourned till the following night, when it was to reconvene *en masse* at Walker Brothers' "old store"—in which building the Godbeites had of late been holding their meetings—for the purpose of ratifying the nominations. In order to draw as large a crowd as possible to witness the launching of the new political vessel, the Independents placarded the town, notifying the general public of the mass meeting and its purpose. "COME ONE, COME ALL" was the caption of the placard, inviting "the people of Salt Lake City" to attend.

"The people" mischievously took them at their word, and thronging the hall at an early hour, took full possession of the meeting, practically deposing Chairman Kelsey, who claimed the right to preside by virtue of his election on the previous evening. They voted in their own chairman—Colonel J. C. Little—and Secretary—E. L. Sloan—and proceeded to put in nomination the following ticket for city officers: Mayor, Daniel H. Wells; Aldermen—First Municipal Ward, Isaac Groo; Second, Samuel W. Richards; Third, Alonzo H. Raleigh; Fourth, Jeter Clinton; Fifth, Alexander C. Pyper. Councilors—Robert T. Burton, Theodore McKean, Thomas Jenkins, Heber P. Kimball, Henry Grow, John Clark, Thomas McLellan, John R. Winder and Lewis S. Hills. Recorder, Robert Campbell; Treasurer, Paul A. Schettler; Marshal, John D. T. McAllister. Having dispatched this business, the meeting adjourned.

The *coup d'état* of the People's Party, in accepting an invitation addressed to "the people," and capturing by superior numbers the mass meeting of the Independents, was regarded by the latter as "a gross outrage," and of course as one directed by "the Church officials," who were made to bear the blame of all such things in the early times of the Territory. And yet no outrage had been intended, nor was there the least design to intimidate the new party, as some might suppose, with a view to preventing them from voting their ticket on election day. It was simply a practical joke, conceived

and carried out in the spirit of merriment—suppressed it may be, but none the less real—and though undoubtedly discourteous, as most practical jokes are, was the offspring of mischievous mirth rather than ill-natured animus. Had it been otherwise, and had not the Independents themselves invited it by the peculiar wording of their placard, it would have been what they indignantly styled it, an “outrage,” and of course utterly inexcusable. The chief regret over its occurrence on the part of the Mormons, if there was any regret, was owing to the use made of it by their political opponents to give color to the charge of intolerance so freely made against “the Church officials.” However the affair soon “blew over,” and though some bitterness was at first expressed, the contagious humor of the incident finally prevailed and good nature ruled generally on both sides at the election.

This occurred on Monday, the 14th of February. The total vote polled was two thousand three hundred and one, of which number the Independent Ticket drew about three hundred; all the rest being cast for the People’s Party candidates, who were consequently elected. Though congratulating themselves on the result, the Independents did not fail to charge “many irregularities,” and claimed that they had been unfairly treated. It is true that on Sunday, February 13th, just one day before the election, Mayor Wells had received a note from Chairman Orr, requesting that one of the judges and one of the clerks of election be chosen from the ranks of the new party—John M. Worley and William P. Appleby being named by him for those positions—and that in answer thereto the Mayor had written the following letter:

MAYOR’S OFFICE, SALT LAKE CITY, Feb. 13th, 1870.

J. M. Orr, Esq., Chair. Cen. Com.,

SIR:—YOUR note dated 12th inst., asking for a change to be made in the board of judges and clerks of election is just received, and I hasten to answer.

Col. Jesse C. Little, Seymour B. Young and John Needham, Esqs., have been chosen judges, and F. A. Mitchell and R. V. Morris, Esqs., clerks of said election.

These gentlemen were selected and appointed to act as said judges and clerks by the city council on Tuesday, 1st inst., and, I am sanguine, command the confidence of the

entire people, and will doubtless act justly and wisely in the performance of the duties thus devolved upon them.

Rest assured that every protection will be afforded for voters to vote their respective tickets without partiality or hindrance.

If, as is sometimes the case, during the day, the polls should be crowded, I would recommend the voters to be patient, for all will have the opportunity afforded to them to vote during the day. And it is designed to enforce the strictest order.

Respectfully,

D. H. WELLS, Mayor.

That the denial of Mr. Orr's request was due to a purpose on the part of Mayor Wells and his associates to treat the Independents unfairly, no one who knew those gentlemen will believe. There was no temptation, even had there been any inclination to do so; the People's voters being so overwhelmingly in the majority. While it would have been good policy to have granted the request of the Independents,—thus taking from their hands a weapon which they afterwards used,—the reason it was not done was because the time was deemed too short and the matter too trifling, and not because of any desire or design to be unfair and reduce by fraudulent means their already insignificant minority.

The sub-committee of challengers appointed by the Independent Central Committee, reported to that body, after the election, that "many voted who were not citizens of the United States; many who were not citizens of Salt Lake City; many who were not of lawful age; and the ballot boxes when filled were set aside and not properly sealed or guarded." The central committee added: "It is needless to recapitulate the numerous obstacles thrown in the way of those desirous of voting the Independent ticket, or the annoyances to which our challengers were subjected. Suffice it to say that without these, and the existing law of the Territory compelling the numbering and identifying of each vote, a system practically robbing every citizen of his freedom of ballot, the result would have been far different. * * * We regard our commencement in the great work of vindicating the rights of free speech, free thought and a free press in this Territory a promising one. To sum up the reward of five days' work. After twenty years of self-constituted

city government, to which we have paid thousands in taxation, without an exhibit of receipts or expenses, and for that time not daring to express a sentiment in opposition to those held by the dominant party, we have in the election on Monday last demonstrated to the country the existence of American institutions in this Territory, and believe that the seed sown on that day will bear such fruits that before many months the State of Utah, freed from all relics of past tyranny and oppression, will be found marching with the great sisterhood of States, keeping step with the progress of the Union." Such was the substance of the report of the Central Committee of the Independent Party, published in the eighth number of the weekly *Tribune*, the party organ, on the Saturday following the election.

The *Deseret News* gave only a brief notice of the election and its result. It stated that all voters cast their ballots as they desired, and that the conduct of the election was such as to satisfy everybody, "unless there were some desirous of a row."

Thus arose the Liberal Party of Utah; though it was not known by that name until several months later, when in July a convention of the party assembled at Corinne, Box Elder County, and placed in nomination General George R. Maxwell as a candidate for Delegate to Congress, to be voted for at the ensuing August election. The call for that convention, issued by the Central Committee of the party, was as follows:

CONVENTION.

The citizens of Utah residing within the several counties of said Territory, who are opposed to despotism and tyranny in Utah, and who are in favor of freedom, liberty, progress, and of advancing the material interests of said Territory, and of separating church from State, are requested to send delegates to meet in convention at Corinne, Utah, on Saturday, July 16th, 1870, at 10 a. m. of said day, to put in nomination a candidate for delegate to Congress, to be voted for at the Territorial election to be held on the first Monday in August next.

By order of the committee.

J. M. ORR, Chairman,
S. KAHN, Secretary.

SALT LAKE CITY, June 24th, 1870.

Corinne, it will be remembered, was the railroad town referred to in a former chapter, situated on the line of the Central Pacific, on Bear River, a few miles above the point where that stream empties into the Lake. It was then the principal Gentile town of Utah, and was thought to have a great future before it.* There, at the time appointed, the convention assembled and chose General P. E. Connor as temporary chairman; Major C. H. Hempstead offering the motion upon which he was elected. A permanent organization was soon effected, and after the passing of resolutions and the transaction of other business, the convention proceeded to nominate a candidate for Delegate to Congress. It was General Connor who nominated General Maxwell for that office, and the nomination was made unanimous by acclamation, with three cheers. Before the convention adjourned a motion by E. P. Johnson prevailed naming the organization the "Liberal Political Party of Utah."

The Liberals opened their campaign at Salt Lake City on the 19th of July. Three days before, at a mass meeting held in the Tabernacle, the People's Party had nominated as their candidate for Delegate, Hon. William H. Hooper. The election fell upon the 1st of August. Over twenty thousand votes were cast for the People's candidate, and a little over a thousand for the Liberal nominee. More than eight hundred of the latter were polled at Corinne, while Salt Lake City gave less than two hundred votes to General Maxwell. He resolved, however, to contest the seat—which was a part of the pre-arranged plan—and did so, basing his contest, as Mr. McGrorty had done, on the ground of his opponent's alleged disloyalty. Captain Hooper, however, though put to the trouble and expense of refuting Maxwell's anti-Mormon stories,—a proceeding to which he would not condescend in the case of McGrorty,

* Bear River City, in eastern Utah, founded about a year before Corinne, was burned down during a riot in November, 1868. The trouble was between some turbulent railroad graders and the citizens, and arose over the hanging of three men on November 11th.

owing to that worthy's failure to begin his contest within the legal limit,—again came off victorious and took his seat in the House of Representatives as the duly elected Delegate from the Territory of Utah. ·

CHAPTER XVI.

1869-70.

THE CRAGIN AND CULLOM BILLS—HOW UTAH VIEWED THE SCHEME FOR HER ENSLAVEMENT—THE MORMON WOMEN PROTEST EN MASSE—THE WOMAN SUFFRAGE ACT—THE FIRST LADY IN UTAH TO EXERCISE THE ELECTIVE FRANCHISE—PRESS OPINIONS ON THE CULLOM BILL AND ITS PROMOTERS—DR. TAGGART AND THE “ASSASSINATION” CANARD—HON. THOMAS FITCH ATTACKS THE CULLOM BILL IN CONGRESS—DELEGATE HOOPER’S PLEA FOR RELIGIOUS LIBERTY—THE BILL PASSES THE HOUSE—MORE MASS MEETINGS IN UTAH—THE MORMON REMONSTRANCE—THE GODBEITES AND CONSERVATIVE GENTILES MOVE FOR THE MODIFICATION OF THE MEASURE—MR. GODBE’S MISSION TO THE NATIONAL CAPITAL—THE CULLOM BILL DIES IN THE SENATE.

IT WAS during the winter of 1869-70 that the measures known as the Cragin and Cullom bills were introduced into Congress.

Both these bills, which, though they never became law, created almost as much agitation in Utah as if they had been enacted by Congress and approved by the President, are believed to have been framed at Salt Lake City, whence they were sent to Washington and there fathered by the distinguished gentlemen whose names they took and who proposed to engineer them through the national legislature. This was the beginning of a long series of such conspiracies by cabals of local anti-Mormons—Federal officials and others—with politicians at the nation’s capital, to secure special Congressional legislation against the Mormon people. Here, indeed, was the virtual origin of the Utah “ring”—child and successor of the Connor-Harding “regenerating” combination—which obtained within the next ten years so much notoriety. The so-called “ring” was the head and front of the Gentile wing of the Liberal Party.

The sponsor of the Cragin bill was Senator Aaron H. Cragin of New Hampshire. He introduced his measure in the Senate early in December, 1869, but this, it seems, was its second presentation, it

having been before Congress during the previous winter. It was a bill of forty-one sections, several more than were comprised in the Wade bill, which it resembled, though differing from it in some respects, and being deemed by the Mormons even more odious and detestable. Said the *Deseret News* of Senator Cragin's literary protege: "With the exception that it does not inflict the death penalty, no edict more thoroughly hateful and oppressive was ever concocted against the Hebrew children by Nebuchadnezzar, or the followers of Jesus by Nero."

Section ten of the bill gave the Governor the sole right to select, appoint and commission all officers of the Territory, excepting constables elected or appointed under the Territorial laws.

Section twenty-one abolished trial by jury in a certain class of cases, in that it provided that all criminal cases arising under the anti-polygamy act of 1862, "as well as all criminal cases arising under this act"—and it was made criminal for a Mormon to solemnize marriages, to counsel or advise the practice of plural marriage, or to be present at "the ceremony of sealing"—should be heard, tried and determined by the district courts without a jury.

Section twenty-seven virtually made the Governor of the Territory the Trustee-in-Trust of the Mormon Church; at least it required the Trustee-in-Trust to report to the Governor annually the amount, description and location of all properties and monies belonging to the Church.

Section thirty-six provided that the United States District Attorney and Marshal should attend to all Territorial business in the district courts, in lieu of the Territorial Attorney and Marshal—which offices were abolished—and be paid for such services out of the Territorial treasury.

Section thirty-seven provided that for the purpose of holding district courts the United States Marshal might take possession of any court house, council house, town house or other public building in Utah and furnish the same in a suitable manner for holding court, at the expense of the Territory.

Section forty took away the functions of the Legislature in relation to the jails and prisons of the Territory and bestowed them upon the Governor, who was empowered to make rules and regulations for said prisons, and appoint and remove at pleasure the wardens and other officers thereof.

Section forty-one repealed all acts or parts of acts of the United States or of Utah Territory inconsistent with this act, and made it unlawful and a misdemeanor for the Legislature of the State of Deseret to assemble, or for an election to be held for any member of said legislature or any officer under said State government.

There were many other objectionable features to the bill, but these were the most formidable. The measure *in toto* was summarized by the *News* as follows: "No American citizen who is a Mormon has any rights—he is not a free man but a slave, to be tried, convicted, fined, imprisoned, at the will of his masters—to be made to pay taxes, but to have those funds spent by his masters in persecuting and torturing him, and enriching them for the service—to wear the form of man, but to have none of the privileges of manhood—to have no right to believe the Bible, practice its precepts, follow its examples, or to worship its God."*

"In reading this bill," said Editor Cannon, "indignation over-

* A local satirist suggested the adding to the Cragin bill of the following sections:

SEC. 32. *And be it further enacted* that the book called the Holy Bible, or so much thereof as pertains to plural marriage or provides for the legal inheritance of property by the children of such plural marriage, is hereby annulled, disapproved and repealed, and declared null and void.

SEC. 33. *And be it further enacted*, that every person before holding any office, voting at any election, sitting as a juror or holding any position of honor, profit or trust under the government of the United States, shall take and subscribe a solemn oath, under the pains and penalties of perjury, that he does disbelieve and always will disbelieve the Holy Bible, so far as it pertains in any way to plural marriage, and that he detests Moses, Jacob, Abraham, the father of the faithful, Gideon and all the prophets who taught and practiced plurality of wives, together with the Saviour, St. Paul and the other Apostles who set forth these men as examples of faith, purity and virtue.

SEC. 34. *And be it further enacted*, that the names of the twelve tribes of Israel, being children of polygamists, be expunged from the gates of the city of the New Jerusalem.

masters every other feeling. We examine our skins, they are white. We look at the people around us, their lineaments proclaim their Anglo-Saxon descent. We listen to their speech—it is the language of freedom, the language in which Shakespeare, Milton and Thomas Jefferson wrote—the language in which Patrick Henry, Adams, Lee and a host of other patriots clothed their immortal ideas. We look at our mountains, though their summits are covered with eternal snow, they are not Siberia. The valleys they encircle are the abodes of a free people—American citizens, many of whose fathers fought and died for liberty, and taught their sons its accents—not serfs whose lives and fortunes are at the disposal of an autocrat. Our color, our lineage, our language, our heaven-born and bequeathed rights, our grand mountains and noble valleys are so many certificates of freedom. And we are FREE. We have consecrated this land to liberty. She has no more fitting or glorious abode, no more willing or devoted adherents. Were our color darker—were we lazy, profligate, vicious and abandoned, we would have rights which Senator Cragin might feel it politic to respect. But we are none of these. We are the gentleman's equals—his peers, in birth, breeding, education, and every quality of manhood, aye, shall we not say his superiors in our conception of the rights of American citizenship?"

From the tenor of the bill, which, as said, is believed to have originated in Utah, it is evident that there were some Gentiles here, as well as at the seat of Government, who, like the Saints themselves, did not believe, with Editor Bowles, that the moral force of the telegraph and the locomotive would prove sufficient to overthrow Mormonism; and who had therefore taken steps to provide other agencies for its destruction. It was believed by the Mormons, whatever the Gentiles claimed as their motive, that the object of the Cragin and Cullom bills was to compel them to renounce their religion, or else abandon the country which they had redeemed and rendered fruitful and beautiful. Of the latter measure the *News* said: "Those who framed it, and those who desire its passage, know the people too well for whom it is intended to think they would

tamely submit to the oppressive and repulsive slavery which it contemplates. The slavery from which the blacks of the South have been emancipated would be delightful compared with the crushing bondage which this bill would bring were its provisions enforced. No men of Anglo-Saxon race could endure such grinding tyranny, and least of all men who inhabit a country like this, and who have endured so much in the past for freedom."

The Cullom bill took its name from General Shelby M. Cullom, of Illinois, now Senator from that State, but then a member of the House of Representatives and Chairman of its Committee on Territories. The bill was presented in the House a few days after the second introduction of the Cragin bill in the Senate, and so completely did it answer the purpose of that measure, out-Heroding Herod, as it were, with its sweeping anti-Mormon provisions, that even the Senator from New Hampshire, losing interest in his own protege, adopted in its stead the bill presented by General Cullom,—so far at least as to introduce it in the Senate after it had passed the House.*

Some time before the latter event, here in Utah was enacted a scene upon which Gentile civilization gazed with wide-eyed wonder; a mass meeting of Mormon women assembling in the Tabernacle at Salt Lake City and protesting against the passage of the Cullom bill. Three thousand of the so-called "down-trodden women of Mormonism," alleged slaves and playthings of a "polygamic hierarchy," eloquently and earnestly declaiming and resolving against the striking off of those fetters with which Christian statesmen, orators and editors insisted that they were bound. A sight beyond compare; a spectacle to astonish Christendom and to awaken the wonder of the world. True, the anti-Mormon, who, like the incorrigible Bourbon, "never learns and never forgets"—never learns anything good, nor forgets anything bad of his Mormon brother—was here to sneeringly assert that these women, in thus

* Another anti-polygamy bill was introduced into the Senate by Mr. Cragin on December 4th, 1871. Like its predecessors, it failed of passage.

declaiming and resolving, were but meekly carrying out the behests of their masters; that they were still acting as slaves under the iron hand and heel of an authority which they dared not disobey; that the whole movement was a mere farce, a political *coup de main* of the great "master of slaves"—Brigham Young—to influence Congress, deceive the country, and secure the defeat of the hostile measure then pending in the House of Representatives. But such a plea was most disingenuous. That Brigham Young and the Mormon men generally were in full sympathy with this mass meeting of Mormon women, is beyond question; but that the "Sisters" were coerced or intimidated into holding it, or in expressing thereat sentiments not entirely their own, as much so as those entertained by their husbands, fathers, brothers and sons, is utterly untrue. Of this fact the anti-Mormons, with very few exceptions, and they perchance late arrivals in Utah, who had not had time to study the Mormon question in all its phases, were perfectly well aware. Strange as it may seem, the Mormon women, quite as much as the Mormon men, have upheld plurality of wives as a divine principle and conscientiously insisted upon the right of their husbands and fathers to practice it.

But to the mass meeting and its proceedings. It occurred on the 13th of January, 1870, soon after the introduction of the Cullom bill into Congress. The weather was inclement, but the Old Tabernacle, where the gathering was held, and which would comfortably seat about three thousand persons, was densely packed with ladies of all ages. Men were not invited, but a few of them gained admission into the building; among them Colonel Finlay Anderson, special correspondent of the *New York Herald*. Mrs. Zina D. H. Young offered an impressive prayer, and on motion of Eliza R. Snow, the leading Mormon woman of that period, Sarah M. Kimball was chosen to preside over the assembly. This lady was president of the Relief Society of the Fifteenth Ward of Salt Lake City, at a mass meeting of which, held a week before, resolutions had been passed against the Cullom bill, after which it had been suggested by Sister Snow,



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Bathsheba W. Smith

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who was present, that general mass meetings be held for the same purpose by the women's societies all over the Territory. Mrs. Lydia Alder was chosen secretary, and the following named ladies were appointed a committee to draft resolutions: Margaret T. Smoot, Marinda N. Hyde, M. Isabella Horne, Mary Leaver, Priscilla Staines and Rachel Grant, presidents respectively of the Twentieth, Seventeenth, Fourteenth, Eighth, Twelfth and Thirteenth Ward Relief Societies.

MRS. KIMBALL stated that the object of the meeting was to consider the justice of a bill now before the Congress of the United States. "We are not here," said she, "to advocate woman's rights, but man's rights. The bill in question would not only deprive our fathers, husbands and brothers of the privileges bequeathed to citizens of the United States, but it would also deprive us, as women, of the privilege of selecting our husbands, and against this we unqualifiedly protest."

Before and after the report of the committee on resolutions, speeches were made by Mrs. Bathsheba W. Smith, Mrs. Levi Riter, Mrs. Amanda Smith, Mrs. Wilmarth East, Mrs. Kimball, Mrs. McMinn, Eliza R. Snow, Harriet Cook Young, Hannah T. King, Phœbe Woodruff, M. I. Horne and Eleanor M. Pratt. A few of the sentiments uttered by these ladies were as follows:—

BATHSHEBA W. SMITH: "I cannot but express my surprise, mingled with regret and indignation, at the recent proceedings of ignorant, bigoted and unfeeling men, headed by the Vice-President, to aid intolerant sectarians and reckless speculators, who seek for prohibition and plunder, and who feel willing to rob the inhabitants of these valleys of their hard-earned possessions, and what is dearer, the constitutional boon of religious liberty."

MRS. RITER: "We have not met here, my beloved sisters, as women of other States and Territories meet, to complain of the wrongs and abuses inflicted upon us by our husbands, fathers and sons; but we are happy and proud to state that we have no such afflictions and abuses to complain of. Neither do we ask for the

right of franchise; nor do we ask for more law, more liberty, or more rights and freedom from our husbands and brothers, for there is no spot on this wide earth where kindness and affection are more bestowed upon woman and her rights so sacredly defended as in Utah."

WILMARTH EAST: "The constitution for which our forefathers fought and bled and died bequeathes to us the right of religious liberty,—the right to worship God according to the dictates of our own consciences! Does the Cullom bill give us this right? Compare it with the Constitution, if you please, and see what a disgrace has come upon this once happy republican government! * * * What is life to me if I see the galling yoke of oppression placed upon the necks of my husband, sons and brothers, as Mr. Cullom would have it."

MRS. AMANDA SMITH related the terrible tragedy at Haun's Mill, Missouri, where her husband and one of her sons were brutally murdered by an anti-Mormon mob, and another son all but mortally wounded, and said: "We are here today to say if such scenes shall be again enacted in our midst?"

MRS. KIMBALL prayed that the spirit of this meeting might be felt in the Congress of the United States, and that any measures calculated to bring evil upon this community might be thwarted, and that Congress would be made to see the injustice of such measures as those contemplated by the Cullom bill.

MRS. McMINN could not refrain from expressing her indignation at the bill. She was an American citizen. Her father had fought under General Washington, and she claimed the exercise of the liberty for which he fought. This lady was nearly eighty-five years of age.

ELIZA R. SNOW: "Shall we—ought we to be silent, when every right of citizenship, every vestige of civil and religious liberty is at stake? Are not our interests one with our brethren? Ladies, this subject as deeply interests us as them. In the Kingdom of God woman has no interest separate from those of man—all are mutual.

Our enemies pretend that in Utah woman is held in a state of vassalage—that she does not act from choice, but by coercion—that we would even prefer life elsewhere, were it possible for us to make our escape. What nonsense! We all know that if we wished we could leave at any time, either to go singly or to rise *en masse*, and there is no power here that could or would wish to prevent us. I will ask this intelligent assemblage of ladies: Do you know of any place on the face of the earth where woman has more liberty, and where she enjoys such high and glorious privileges as she does here as a Latter-day Saint? No. The very idea of women here in a state of slavery is a burlesque on common sense. * * * The same spirit that prompted Herod to seek the life of Jesus, the same that drove our pilgrim fathers to this continent, and the same that urged the English government to the system of unrepresented taxation, which resulted in the independence of the American colonies, is conspicuous in those bills. If such measures are persisted in they will produce similar results. They not only threaten extirpation to us, but they augur destruction to the government.”

HARRIET COOK YOUNG:—“The Most High is the founder of this mission, and in order to its establishment His providences have so shaped the world’s history, that on this continent, blessed above all other lands, a free and enlightened government has been instituted, guaranteeing to all social, political and religious liberty. The Constitution of our country is therefore hallowed to us, and we view with a jealous eye every infringement upon its great principles, and demand in the sacred name of liberty, that the miscreant who would trample it under his feet by depriving a hundred thousand American citizens of every vestige of liberty, should be anathematized throughout the length and breadth of the land, as a traitor to God and his country.”

HANNAH T. KING:—“Who or what is the creature that framed this incomparable document? Is he an Esquimaux or a Chimpanzee, or what isolated land’s end spot produced him? What ideas he must have of woman! Had he ever a mother, a wife or a sister?

In what academy was he tutored, or to what school does he belong, that he should so coolly and systematically command the women of this people to turn traitors to their husbands, their brothers and their sons! * * The women of Utah have paid too high a price for their present position, their present light and knowledge, and for their noble future, to succumb to so mean and foul a thing as Baskin, Cullom and Co's bill."

PHOEBE WOODRUFF:—"Shall we as wives and mothers sit still and see our husbands and sons, whom we know are obeying the highest behest of heaven, suffer for their religion without exerting ourselves to the extent of our power for their deliverance? No! verily, no!! God has revealed unto us the law of the Patriarchal Order of Marriage and commanded us to obey it. We are sealed to our husbands for time and eternity, that we may dwell with them and our children in the world to come, which guarantees unto us the greatest blessing for which we are created. If the rulers of our nation will so far depart from the spirit and the letter of our glorious Constitution as to deprive our Prophets, Apostles and Elders of citizenship, and imprison them for obeying this law, let them grant us this last request, to make their prisons large enough to hold their wives, for where they go we will go also."

MRS. HORNE said that she was one of the so-called oppressed women of Utah, that she was the wife of a man who practiced the principle of plurality of wives, and she expected always to sustain him.

MRS. ELEANOR M. PRATT then spoke a few words, and after a closing exhortation from Eliza R. Snow, the mass meeting adjourned; not, however, before adopting unanimously the following resolutions, which were read and passed upon amid great enthusiasm:

Resolved, That we, the ladies of Salt Lake City, in mass-meeting assembled, do manifest our indignation, and protest against the bill before Congress, known as "the Cullom bill," also the one known as "the Cragin bill," and all similar bills, expressions and manifestoes.

Resolved, That we consider the above named bills foul blots on our national escutcheon—absurd documents—atrocious insults to the honorable executive of the United

States Government, and malicious attempts to subvert the rights of civil and religious liberty.

Resolved, That we do hold sacred the constitution bequeathed us by our forefathers, and ignore, with laudable womanly jealousy, every act of those men to whom the responsibilities of government have been entrusted, which is calculated to destroy its efficiency.

Resolved, That we unitedly exercise every moral power and every right which we inherit as the daughters of American citizens, to prevent the passage of such bills, knowing that they would inevitably cast a stigma on our republican government by jeopardizing the liberty and lives of its most loyal and peaceful citizens.

Resolved, That, in our candid opinion, the presentation of the aforesaid bills indicates a manifest degencracy of the great men of our nation; and their adoption would presage a speedy downfall and ultimate extinction of the glorious pedestal of freedom, protection, and equal rights, established by our noble ancestors.

Resolved, That we acknowledge the institutions of the Church of Jesus Christ of Latter-day Saints as the only reliable safeguard of female virtue and innocence; and the only sure protection against the fearful sin of prostitution, and its attendant evils, now prevalent abroad, and as such, we are and shall be united with our brethren in sustaining them against each and every encroachment.

Resolved, That we consider the originators of the aforesaid bills disloyal to the constitution, and unworthy of any position of trust in any office which involves the interests of our nation.

Resolved, That, in case the bills in question should pass both Houses of Congress, and become a law, by which we shall be disfranchised as a Territory, we, the ladies of Salt Lake City, shall exert all our power and influence to aid in the support of our own State government.

This meeting of "the sisters" was but the initial to many such held in various parts of the Territory during the next few days, all protesting in a similar manner against the passage of the Cullom bill.

And these were the women who were said, and sincerely believed by many, to be slaves,—the unwilling but fettered serfs of the Mormon Priesthood; women who had organized, throughout the length and breadth of Utah, and wherever the Saints had settlements, relief societies of their sex for the succor of the poor, for the storage of grain, and for works of charity and benevolence in general; women who not only convened regularly in their own meetings, where they spoke and voted upon questions that came before them, but had always voted at the conferences and gatherings

of their people whenever subjects had been submitted for that purpose to the congregation; who were soon to establish a woman's paper—the *Exponent*—to voice their views to the world, and upon whom was about to be bestowed by their alleged masters—for it was the fathers, husbands and sons of these women who then composed the Utah Legislature—the elective franchise, for which so many thousands of Gentile women in free America have sought and sued so long in vain.

It was only a month after the great mass meeting of Mormon women at Salt Lake City that the following act, which had passed the Legislative Assembly then in session, was approved by Acting-Governor S. A. Mann:

“An act giving women the elective franchise in the Territory of Utah.

“SECTION 1.—*Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That every woman of the age of twenty-one years, who has resided in this Territory six months next preceding any general or special election, born or naturalized in the United States, or who is the wife, or widow, or the daughter of a naturalized citizen of the United States, shall be entitled to vote at any election in this Territory.

“SECTION 2.—All laws, or parts of laws, conflicting with this act are hereby repealed.

“Approved February 12th, 1870.”

It was thought by many that the Mormon women, with the ballot in their hands, would use it to free themselves from the “galling yoke” under which they were supposed to be struggling. So much was this the case that about a year before the Utah Legislature took action to enfranchise the women of the Territory, Mr. Julian, of Indiana, as already stated, had introduced a bill in the lower branch of Congress, “to solve the polygamic problem.” Being asked by Delegate Hooper, what were the provisions of the bill, Mr. Julian replied: “Simply a bill of one section providing for the enfranchisement of the women of Utah.”

"I am in favor of that bill," said Mr. Hooper.

"Do you speak for your leading men?" asked Julian.

"I do not," replied Hooper, "but I know of no reason why they should not also approve of it."

The next day a similar bill was introduced into the Senate by Mr. Pomeroy of Kansas. Mr. Hooper, on returning to Utah, detailed his conversation with the gentleman from Indiana to President Young, and this is believed to have led to the introduction of the woman suffrage bill into the Territorial Legislature.*

The bill, having been passed by the Legislature and sent to the Acting-Governor for his signature, was returned by him, approved, with the following communication:

EXECUTIVE OFFICE,

UTAH TERRITORY, February 12th, 1870.

To the Hon. Orson Pratt, Speaker of the House,

SIR:—I have the honor to inform you, that I have this day approved, signed and deposited in the Secretary's Office, "An Act" conferring upon women the elective franchise. In view of the importance of the measure referred to, it may not be considered improper for me to remark, that I have very grave and serious doubts of the wisdom and soundness of that political economy which makes the act a law of this Territory, and that there are

*The *Phrenological Journal* for November, 1870, in the course of a biographical article on Hon. William H. Hooper, said: "Utah is a land of marvels. She gives us, first, polygamy, which seems to be an outrage against 'woman's' rights,' and then offers the nation a 'woman's suffrage bill,' at this time in full force within her own borders. Was there ever a greater anomaly known in the history of society? The women of Utah hold political power today. They are the first in the nation to whom the functions of the state have been extended. * * * A year ago a friend of the Mormons informed us that the Delegate of Utah was in New York, just from Washington, bound for Utah to lay before Brigham Young the extraordinary design of giving to the women of Mormondom political power. And the circumstance was the more marked for the singular fact that the legislative minds, aided by the American press, were proposing just at that time a scheme for Congress to force female suffrage upon Utah, to give the women of that Territory the power to break up the institution of polygamy, and emancipate themselves from their supposed serfdom and the degradation of womanhood."

The writer of the article was evidently not aware that the Legislature of the newly created Territory of Wyoming, on December 10th, 1869, two months and two days before the approval of Utah's woman suffrage act, had passed a law giving women the right to vote. Wyoming, therefore, was first, and Utah second, in the nation to invest women with the elective franchise.

many reasons which, in my judgment, are opposed to the legislation ; but whatever these doubts and reasons may have been, in view of the unanimous passage of the act in both the House and the Council, and in deference to the judgment of many whose opinion I very much respect, I have, as before stated, approved of the bill, hoping that future experience may approve the wisdom of our action, and that the same may be found to be in harmony with the spirit and genius of the age in which we live.

Very Respectfully,

S. A. MANN, Acting-Governor.

The anti-Mormons were as prompt as ever to assign a selfish motive for the action of the Legislature. "It is to enhance the power of the Priesthood," said they. But if the bill had failed to pass, they would have been just as apt to declare that the Mormons were afraid to enfranchise the women of their community, and were determined to keep them in bondage. Such has ever been the perversity of the Utah "Bourbons."

Seven days after the approval of the woman suffrage bill, at a general meeting of the relief societies of Salt Lake City, presided over by Eliza R. Snow, a committee was appointed to frame an expression of gratitude to Acting-Governor Mann for approving the measure granting the elective franchise to the women of Utah. This committee consisted of Eliza R. Snow, Bathsheba W. Smith, Sarah M. Kimball, Margaret T. Smoot, Harriet Cook Young, Zina D. H. Young, Mary Isabella Horne, Phœbe C. Woodruff, Marinda N. Hyde, Elizabeth H. Cannon, Rachel I. Grant, Amanda Smith, Amelia F. Young and Prescindia H. Kimball. To their communication the Acting-Governor courteously responded, expressing the confident hope that the ladies of Utah would so exercise the right conferred as to approve the wisdom of the legislation.

Two days later, Monday, February 21st, occurred the regular municipal election at Salt Lake City. It was unique in two particulars. It was the first election in the Territory, as shown in the previous chapter, at which two parties—the People's and the Independent—contended for the supremacy, and the first at which the newly acquired right of woman suffrage was exercised. Only a few of the ladies cast their ballots. The first woman to vote



Engr. by E. G. White. New York.

My Isabella Horne.

Wells and Beardsley

that day, and consequently the first in Utah to exercise the elective franchise, was Miss Seraph Young, daughter of B. H. Young, Esq., and grand-niece to President Brigham Young.

The demonstration by the women of Mormondom against the Cullom bill created a sensation throughout the country, and though it did not prevent the measure from passing the lower house of Congress, it doubtless had its effect, with other things, in causing it to die in the Senate. Some of the sentiments uttered by "the sisters" at their mass meetings were applauded by leading journals of the land as worthy of women descended from the heroines of the Revolution, but they were told that "their cause was not as good as their mothers' cause had been in Washington's day."

Some prominent newspapers, however, attacked the Cullom bill as vigorously as did the Mormons themselves. The Chicago *Times* stigmatized it as "an act to replenish brothels," and held up to derision those who had advised Mr. Cullom as to the good and wholesome effect the proposed legislation would have upon the morals of the Mormon community. One person particularly mentioned by the *Times* in this connection was Dr. John P. Taggart, United States Assessor of Internal Revenue for Utah. Mr. Taggart, after the famous "assassination" episode, which many of our readers will remember—in which the tearing of the doctor's coat sleeve, and the abrasion of his skin by a pet bull-dog was converted by the anti-Mormons into an attempt on the part of the Saints to assassinate him—being in Washington, was invited by Mr. Cullom to go before the House Committee on Territories, where he gave the advice in question. Said the *Times*:

"Taggart is not a Mormon. He is not a polygamist. He has been a resident of Utah less than a year. He despises the Mormons, religiously and every other way. And the Mormons, by his own showing, as cordially despise him.* * * * But this

*One reason for this ill-feeling between Assessor Taggart and the Mormons was his earnest though futile attempt, during the year 1870, to compel the Church to pay an enormous tax on its tithing fund, consisting of voluntary donations by its members.

revenue officer would pass Mr. Cullom's bill for the good effects it would have in sending adrift upon society a vast number of Mormon ex-wives and their young children. * * * As most of these thousands have no friends to receive and provide for them, they would go to replenish the alms-houses and brothels in the large cities. 'They would be a hundred per cent. better off than they are now,' Mr. Cullom's revenue officer thinks. Instead of living in a state where at least they can respect themselves, and enjoy the colorable status of virtuous women, they would be reduced by Mr. Cullom's bill to the condition of social outcasts; mothers, yet neither wives nor widows; pariahs, at whom the finger of scorn would point, and to whom no door but that of the brothel and prison would open. Such is the dismal alternative which Mr. Cullom's bill offers to the women of Utah. Such is the 'better condition' of which a brainless revenue officer prates, and which pharisees stand ready to applaud. What wonder that the women of Utah should declare for polygamy rather than such a fate? Mr. Cullom's witness has no doubt that, if the question were submitted to the women of Utah, they would vote against Mr. Cullom's bill. It would be infamous to doubt it. Suppose the proposition were submitted to the wives of Chicago that their marriage relations should be declared null and void, and that they should take their children and go forth to struggle against prejudices of moral hypocrites, and the temptations of sin. Can any sane man doubt what their choice would be? The proposition to undo what is already done in Utah is infamous. If Mr. Cullom's bill should become a law, it would be an *ex post facto* law of the worst character it is possible to imagine. It would be such a law as would curse the very name of virtue, by consigning thousands of women to lives of shame and infamy."

The Omaha *Herald* treated the same incident in this style: "Dr. Taggart, United States Assessor in Salt Lake, is just now swearing to his opinions concerning polygamy, Brigham Young and the Mormons. He is the man who was lately 'assassinated' by a

worried and sensible bull dog. Among others he swears to these things:

“I believe that one thousand troops sent out there would be the best thing that ever occurred. I do not think we need a man to insure security to life or property of any Gentile, but one thousand troops would strengthen the backbone of those disaffected Mormons. [The Godbeites.] But that would not be sufficient to break up the system of polygamy. The leaders of the schism are as strongly in favor of polygamy as Brigham Young himself.”

“Four distinct opinions are here sworn to by Dr. Taggart, viz: First. ‘A thousand troops sent out there would be the best thing that ever occurred.’ No doubt of it. It would be the best thing that ever occurred to the Colfax squad, because purses now empty would be filled by it, with a corresponding depletion of the people’s money bags. This must be what the thousand troops should be sent there for, because Dr. Taggart shows in the next breath why they should not be sent—when he says: Secondly; ‘I do not think we need a man to insure security to life and property of any Gentile.’ How completely this upsets and contradicts the more greedy of the Colfax carpet baggers in Salt Lake, who are constantly writing and telegraphing of the imminent dangers to both life and property in Utah. Thirdly: ‘But that would not be sufficient to break up the system of polygamy.’ The deuce you say! And, Fourthly: ‘The leaders of the schism are as strongly in favor of polygamy as Brigham Young himself.’ Now if this testimony, given by a man who evidently wants to tell the truth, does not show beyond all cavil the utter nonsense of the schemes of the Cullom and Colfax combination for plunder in Utah then language has ceased to have meaning, and Dr. Taggart is a perjured villain. This testimony shows the utter uselessness of this proposed warfare against the people of that Territory, and loses none of its value because it makes the witness himself ridiculous in that part of it where he says, in one breath, that ‘one thousand troops’ are needed ‘to strengthen the backbone of those disaffected Mormons’, and in the very next asserts that those ‘disaffected Mormons are as strongly

in favor of polygamy as Brigham Young himself. Truthful as this is it is ridiculous, since this whole business of military expeditions to Utah is aimed to destroy polygamy, and is predicated on no other pretext."

It is evident from the foregoing that the Omaha *Herald* was perfectly aware of the truthfulness of the Mormon claim that polygamy was a mere pretext of the Utah anti-Mormons to help along their plans and conspiracies for their own aggrandizement. Like their plea of "insecurity to life and property of Gentiles," the polygamy cry served them as a catchword to enlist sympathy for their cause, and deceive better men than themselves, here and elsewhere, into lending them aid and comfort in their nefarious operations. At this writing it need not be asserted that the fact that polygamy cut no figure, except as a war-cry, has often been privately admitted by the leaders and chief promoters of the opposition to the Mormons. Their continued hostile attitude since the issuance of President Woodruff's manifesto, doing away with polygamy, sufficiently attests the truth of the proposition.

Among those who spoke against the Cullom bill in Congress was Hon. Thomas Fitch, of Nevada, whose lucid logic and brilliant eloquence, in denunciation of the measure, doubtless did much to retard its passage through the House, if it did not conduce to its death in the Senate. From his speech, which was delivered on the 23rd of February, just one month before the Cullom bill passed the House, we present the following excerpts:

Mr. Speaker, that the provisions of this bill, reported by the Committee on the Territories, rigidly enforced, would put an end to polygamy in Utah is intrinsically probable. That the destruction of polygamy is a wise and laudable purpose may be readily conceded; and if such destruction were all that is involved it would be my duty to advocate this measure instead of opposing it; but knowing something of the Mormon country, and something more of the peculiar character and motives of the people inhabiting that country, I am impelled to the conviction that this bill, if enforced as law, would provoke consequences most prolific of misfortune, and entail results altogether unapprehended.

Among these results may be included, first, the temporary obstruction, if not the complete destruction, of the great overland railroad. Next, Utah would be returned to the desolateness which once reigned supreme upon her soil. Again, the growing industries

of a vast country would be checked, and the development of the Pacific coast seriously retarded. Beyond all this, thousands of brave men would be slain, and millions of treasure expended. Notwithstanding the opinions of the gentlemen who appeared before the Territorial Committee, I fear that the people of Utah would regard the passage of this bill as a declaration of war, and would prepare with all the fury and earnestness and zeal of fanatics to enter upon a contest most bitter, protracted and bloody. The result of such a contest no man can doubt. One hundred and forty thousand people, however self-sustaining, however isolated, however favored by position and circumstances, could not maintain themselves against the power of the Government. The Mormons would be exterminated or driven out of Utah. But, with polygamy thus destroyed, adultery thus delocalized, concubinage thus scattered, with virtue and desolation reigning supreme in a waste where only the jargon of the savage disturbed the stillness, the rebuking verdict of a tax-burdened people would be that the result accomplished was not worth the sacrifice involved.

* * * * *

They believe in their faith as deeply as the Mohammedan believes in his Koran or the Christian in the crucifixion of his Redeemer. Assail that faith with armies and you will consolidate and strengthen and infuse them with more ardent zeal. The gentleman from Illinois [Mr. Cullom] believes that they will make no resistance. Sir, have they faced the storm and the savage, desert and disease, to be turned from their tenets or drawn from their convictions by an act of Congress? Would any sentiment less earnest than passionate, zealous, fanatical belief have induced a people to go to such a distance from the centers of civilization, to accept such contumely and undergo such sacrifices and such toil? Gentlemen are in error if they suppose that no other purpose than unbridled indulgence in gross animal sensualism carried the Mormons to a life of privation and labor in Utah. If such alone had been their purpose perhaps they might have achieved it at less cost, less effort and less unpleasant notoriety without crossing the Mississippi River. The tree of degraded sensuality does not bear the fruits of thrift and industry and temperance.

* * * * *

Polygamy and slavery have sometimes been called "twin relics of barbarism." That was a taking phrase in the Chicago platform of 1856. It had a resonant chime; it made a good rallying cry. But while polygamy and slavery may have been twin relics of barbarism in the sense that they were of equal antiquity, and were both capable of being sustained by scriptural authority, they were not equal in present importance or in possible consequences. Slavery rested upon compulsion and drew its vitalizing force from oppression; polygamy depends upon persuasion and leans upon its own distorted interpretation of the divine philosophy. Slavery was incorporated into the civil, political and social framework of fifteen states; polygamy is a pariah which has fled to the desert for a home. Slavery was the basis of a vast industrial system; polygamy is an exereescence upon a promising industrial experiment. Slavery prevented a free press and prohibited free speech; polygamy is unable to prevent the publication of an anti-Mormon paper in Salt Lake City, and anti-polygamy meetings are held within sight of the residence of Brigham Young. Slavery, grown arrogant by tolerance, assailed the nation and defied its laws;

polygamy, feeble and subject, obeys every statute except that which threatens its existence, and seeks obscurity beyond the reach of civilization. All laws of the United States and of Utah are obeyed in Utah except the anti-polygamy act. The very witness upon whose testimony the committee have framed this bill averred that in all criminal or civil actions where polygamy was not involved he never met a fairer people; and in suits between Mormons and Gentiles, Mormon juries do impartial justice.

* * * * *

Ours is a government of opinion framed into law; and laws unsustained by opinion are apt to remain unenforced. Every county of every State and Territory is in some extent self-governed and independent. If the people of any county tacitly agree that a particular crime shall not be considered a crime if committed within that county, what is to be done about it? If grand juries persistently refuse to find indictments, or petit juries regularly return verdicts of "not guilty" for that particular crime, there is no way to reach the matter or punish the offenders through the ordinary processes and means permitted under a republican form of government. There is no power invested in executive or judge to take offenders beyond the limits of their state for trial. Cases of this character can be reached only by finding such evidence of an armed and general conspiracy to resist the laws as to authorize the suspension of civil authority within the infected district, and the interposition of military rule. The remedy is expensive, and its frequent use most dangerous to republican government. It should never be resorted to except in extreme and desperate cases. I do not believe that the present is such a one. But, it may be asked, shall we do nothing? Shall we allow this defiance of the authority of the United States to continue? Shall we permit Brigham Young and his followers to pursue the practice of polygamy without any earnest effort to suppress it? I answer, sir, that I believe polygamy has run its course. I believe that the railroad which deprived the Mormons of their isolation has struck it a mortal blow. Every locomotive bell resounding through the gorges of the Wasatch Mountains is sounding its death knell. I believe in the persuasive power of progress and the logical force of attrition.

* * * * *

Already since the railroad was completed, a schism has grown up in the Mormon Church which its President seems powerless to heal or subdue. They have given the women the ballot; and howsoever the Mormon wife may vote now; howsoever she may vote to maintain her social status or minister to her physical wants; howsoever religious convictions may impel her or iron circumstances restrain her; howsoever ignorant or poor she may be, sooner or later the assaulted, imprisoned, outraged instincts of human nature will arise and vindicate themselves. The house will be overturned upon the heads of the captors. Possibly, indeed, they who but now have given the ballot to the women of Utah have led a blind Samson to the pillars of their temple. Utah is no longer isolated. In that fact alone the days of polygamy are numbered. So long as an iceberg remains locked in the polar fields it dares the assaults of the elements; but when the salt summer waves come stealing up from the south they detach it from its surroundings, they float it away, they eat out a piece here and crumble away a fragment there, until some day its foundations are gone and it tumbles with a crash into the ocean; and the process is repeated until there is nothing left to mark its existence, save a chill in the water, which the Gulf

stream speedily eradicates. Sir, this social iceberg has stood in the midst of the great American desert, swelling its frost-bound proportions for a quarter of a century; but the railroad has unmoored it from its fastenings, and it floats without rudder or pilot in the surrounding ocean of civilization. A wave washes down from the railroad and makes a chasm in the church. Adventurous miners find precious metals in the vicinage, and another wave rolls in from the east or west and makes a chasm in the family circle. Thus the elements of destruction are busy about it. Some day not far off, death will claim the great organizing, executive brain which holds it together, palsyng the mighty will and hushing the potent voice that has led willing men and women through trackless and untrodden wastes. Neither do I believe that the majestic march of events shall be long stayed or obstructed, even perhaps till that fate which awaits us all shall have executed its plans.

I predict that the sagacious mind of that great Mormon leader, Brigham Young, grasping the prophecies which start from every footprint of progress across the land he has redeemed from sullen void, will strangle polygamy by a revelation. But whether this prediction shall be verified or not polygamy is doomed. Natural causes will work its speedy decay.

* * * * *

But if we assail it in such a spirit of violence and venom as we exhibit towards the vices of no other community; if we recklessly change the jury system, and in order to reach this one blot upon our national escutcheon provide for a violation of all the practices and usages of republican government; if we attack it as this bill proposes, with packed juries backed by lines of bristling steel, we shall consolidate while we would scatter, we shall unite forces which we would dissolve; we shall intensify the elements we would destroy; we shall vitalize if we shall not perpetuate by every means of officious and unjustifiable persecution the tenets we would expunge or wholly destroy; unless, indeed, at immense cost of life and money, we hurl against polygamy so much of armed force as to exterminate those who practice it. Would any member of this House, actuated by the commonest impulses of humanity, susceptible to ever so remote a sentiment of charity for the weaknesses of his kind, feel justified in exterminating a fellow man because he violates and defies the religion of his fathers? Has the great Author fashioned all men of like perceptions and possibilities?

* * * * *

Mr. Speaker, this bill, with all due respect to the Committee on the Territories, is as inoperative, as ill-considered, as worthless for all practical purposes in detail as it is generally unwise and premature. I propose to scan briefly a few of its provisions. Section three provides that there shall be appointed for each judicial district of the Territory a deputy or an assistant United States attorney. Section four makes it the duty of the district attorney of the United States to attend in person or by deputy all the district courts in the Territory, to prosecute all criminal indictments returned to said courts. Section twenty-five takes away the present criminal jurisdiction of the probate and county courts, and gives the United States district or territorial courts exclusive jurisdiction in criminal cases. Mr. Speaker, I find on an examination of the statutes that the salary of the United States district attorney for the Territory of Utah is \$500 per

annum. Where can there be found a lawyer who will take such a position? Where can there be found a competent attorney who will agree to devote all his time to practice in these courts and pay his traveling expenses and prosecute all criminal cases for \$500 per annum and a doubtful amount of fees? These sections of the bill just cited evidence to my mind the struggle between reform and reduction which has been going on in the minds of the members of the Committee on the Territories. The Committee wished to be at once virtuous and economical. They conjectured the House might possibly wink at a public scandal, but would certainly glare with pitiless eye upon a proposed public expenditure, and so with that same touching confidence and devotion which inspired those who drop money into the box for the heathen, feeling that their duty is performed whether the heathen ever get a cent or not, the Committee provided for district attorneys and did not provide any compensation for these district attorneys. If no gentlemen shall be found willing to prosecute polygamists without pay, and merely for the comfort and joy of the transaction, it is not the fault of the Committee.

* * * * *

Now, sir, section seven of this bill provides that the United States marshal and clerk of the United States court shall select the jury. It removes this delicate and responsible task from the usual arbitrament of chance. It takes it from the judge who might be unwilling to pack a jury, even to convict a polygamist, and places in the hands of the ministerial and executive officers of the court the dangerous and responsible power of selecting a jury to pass on the lives and the liberty and property rights of the people. Why not do away with the farce of a jury draft, and make the marshal and the clerk the jury? The result would be the same and the process less troublesome and expensive. I doubt very much, sir, if under the provisions of this bill a panel of thirty-nine men for grand and petit jurors can be obtained in Utah. Mormons are excluded from the jury and the Gentiles are not numerous. Section ten of this bill provides that no person shall be competent to serve either as grand or petit jurors who believes in, advocates, or practices bigamy, concubinage, or polygamy; and upon that fact appearing by examination, on *voir dire* or otherwise, such person shall not be permitted to serve as a juror. Webster defines concubinage as the act or practice of ameliorating the acerbities of bachelor life without the authority of law or legal marriage. These are not the exact words of Webster. His definition is a little clearer, but I prefer my form of expression. Gentlemen who wish to be entirely accurate can hunt up the authority. Now I doubt if thirty-nine men could be found in Utah able to take such an oath. Of course in the Springfield district of Illinois there would be no difficulty in obtaining a jury under such restrictions, though I fancy they would thin the panel even there. But Utah is a frontier community where men are not subject to wholesome social restraints, and where, in this particular, at least, even they are singularly destitute of a shining moral example.

Section fourteen of this act places polygamy and concubinage upon a par with murder, in that it deprives the parties accused of these offenses of the benefit of the statute of limitations. Permit me to place this law in working harness, that we may mark its operations and scan its harmonious proportions. A citizen of Springfield, Illinois, hitherto respected and virtuous, takes up his march across desert and mountain toward the golden land, and tarrying in the vicinity of Salt Lake City falls in with an

emigrant train and being decoyed by the wiles of some sun-bronzed and languishing Delilah departs from the path of rectitude. Years roll by. It is a wild sally of his youth, perhaps repented of and forgotten, or, it may be, forgotten without the repentance. But, behold! after all these years complaint is made; a requisition issues; he is taken before a jury selected by a most responsible Salt Lake clerk or marshal, convicted of concubinage, and the next we hear of him he is at hard labor in a military camp, a ball and chain attached to his ankles, suffering the compunctions of an outraged conscience and studying the mysteries of that peculiarly impartial ethical code known as the Cullom bill—a bill whose triumphs will be seen on the deserted site where once flourished a deluded and misguided people.

Section nineteen is better than its predecessor, for it compels all officers, territorial or local, in entering upon their duties to take an oath that they will not hereafter practice polygamy, bigamy, or concubinage. Perhaps if such a law had been in operation fifteen years ago, one of the witnesses upon whose musty testimony the Committee seem to have relied, would not have remained long enough in Utah to have acquired that information on the Mormon question of which he seems to have possessed himself. I allude to Judge Drummond.

The receivers to be appointed under section thirty of this act, who are to take charge of the property of convicted polygamists, and divide its proceeds among the former wives, are the only official persons in Utah not required to take this vow of virtue. The omission is significant, to say the least. Let me call the attention of the House to the absurdity of this thirtieth section. It proposes to confiscate all property of all persons convicted of polygamy, for the benefit of their wives. Why, there is no property in Utah save that which depends upon the peace and prosperity of the people. There are no accumulations of wealth. There is no coin to any considerable extent in the country. Lands and flocks and herds compose the bulk of the Mormon possessions. Let there be sixty days of war and all the property in Utah would not sell for enough to furnish a week's subsistence to the women in Utah. Oh, but this bill proposes that the Secretary shall appropriate or expend the sum of \$100,000 for the relief of the forty thousand concubines to be taken from their protectors—about two dollars and a half each! A munificent appropriation! Enough, with economy, to give them about three days' rations each! And, sir, what will you make of these forty thousand women whom it is proposed by this bill to take from those who now support and protect them? What position will they occupy? Which of you will open your doors to them or invite them to sit by your firesides or even labor in your kitchens? The flimsy barrier that protects them from the very depth of social degradation is the fact that they are wives by a custom existing in Utah. It is a pitiable position, but it is better than that of their unhappy sisters whom necessity rather than vice has driven to the streets of your cities and the wards of your hospitals and prisons. Sir, this is not the place to discuss that social evil which keeps pace with the stately steps of civilization, and bears aloft its putrescent glow by the side of her starlit pathway; neither is it the time to legislate for that smaller social evil which excites our attention because it is the only vice which stains a community otherwise most virtuous, most peaceful and exemplary. Take the children of Utah and scatter them homeless and hopeless waifs through the arteries of your great cities; take the women

of Utah and place them in the splendid dens that line the thoroughfares of Boston, New York, Philadelphia, Baltimore, and Washington; take the men of Utah, return them to the Atlantic States, and make them casual customers of those whom they now support and protect, and how much will Christianity have gained, how much will society have been benefitted, how much will the honor and power of the nation have been vindicated and strengthened?

Mr. Speaker, I do not intend that my position upon this matter shall be misrepresented to my constituents or to the country. I regard polygamy as an evil to be discouraged and a violation of law which should be if possible prevented. I simply doubt the wisdom of the means selected to achieve that result. For the coercion and misrepresentation and fraud with which the Mormons have sometimes sought to carry out their purposes, there will come a day of reckoning and repentance. For the murderers of Mountain Meadows the God of justice holds in his hand some terrible retribution. But because of crimes some of that people may have committed in the past, nor yet because of their refusal to obey the laws we have made for them alone, I am not willing to plunge headlong into war. If there be those upon this floor who desire to confiscate the property of these outcasts, who consent to give their men to the sword and their women to the bagnio, and who are ready to meet the just reproaches of a tax-burdened and humane people, they must proceed without my help. I am not willing to look upon the ruin of the great road which forms the keystone of the arch of the highway around the world. I am not willing to destroy the channel through which my people hope to receive the life-currents of empire. I count the cost and I count the result, and I am not willing to pay the price of reaching that result. I will not vote for this bill, which will add millions to the debt and thousands to the muster roll of the nation's dead, and in the name of a people who have burdens enough to bear and kindred enough to mourn, I protest against the passage of this most unwise and ill-considered bill.

Such were the salient points of the brilliant and powerful speech of the gentleman from Nevada. Finding that a majority of the members of the House were bent upon passing the Cullom bill, Mr. Fitch, at the last moment, offered an amendment to extend its provisions "to all the States and Territories where bigamy, polygamy or concubinage was practiced." The amendment was rejected. Messrs. Aaron A. Sargent and Samuel B. Axtell, of California, also spoke against the measure. Hon. William H. Hooper, Utah's delegate, delivered a telling speech against it on the 23rd of March, the day that witnessed its passage by the House. Though himself monogamist, Mr. Hooper pleaded earnestly for the right of his polygamous constituents to practice unmolested this feature of their religion. It is fitting that we give some selections from this, his crowning effort in Congress. Said he:

Mr. Speaker, I wish to make a few remarks concerning the extraordinary bill now under consideration. While so doing, I crave the attention of the House, for I am here, not alone as one of the people sought to be cruelly oppressed: not only as the delegate representing Utah; but as an American citizen, to utter my solemn protest against the passage of a bill that aims to violate our dearest rights and is fraught with evil to the Republic itself.

I do not propose to occupy the time of the House by dwelling at length upon the vast contributions of the people of Utah to the wealth of the nation. There is no member in the House who does not recollect in his schoolboy days the vast region of the Rocky Mountains characterized in the geographies as the "Great American Desert." "There," said those veracious text books, "was a vast region wherein no man could live. There were springs and streams, upon the banks of which could be seen the bleaching bones of animals and men, poisoned from drinking of the deadly waters." Around the borders of the vast desert, and in its few habitable parts, roamed the painted savages, only less cruel and remorseless than the desert itself.

In the midst of this inhospitable waste today dwell an agricultural, pastoral, and self-sustaining people, numbering 120,000 souls. Everywhere can be seen the fruits of energetic and persistent industry. The surrounding mining Territories of Colorado, Idaho, Montana, Arizona and Nevada, in their infancy, were fed and fostered from the surplus stores of the Mormon people. The development of the resources of these mining Territories was alone rendered possible by the existence at their doors of an agricultural people, who supplied them with the chief necessities of life at a price scarcely above that demanded in the old and populous States. The early immigrants to California paused on their weary journey in the redeemed wastes of Utah, to recruit their strength, and that of their animals, and California is today richer by thousands of lives and millions of treasure, for the existence of this half-way house to El Dorado.

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I will not, Mr. Speaker, trespass upon the time of the House by more than thus briefly adverting to the claims of Utah to the gratitude and fostering care of the American people.

For the first time in the history of the United States, by the introduction of the bill under consideration, a well defined and positive effort is made to turn the great law-making power of the nation into a moral channel and to legislate for the consciences of the people.

Here, for the first time, is a proposition to punish a citizen for his religious belief and unbelief. We have before us a statute book designating crime. To restrain criminal acts, and to punish the offender, has heretofore been the province of the law, and in it we have the support of the accused himself. No man comes to the bar for trial with the plea that the charge upon which he is arraigned constitutes no offense. His plea is "Not guilty." He cannot pass beyond and behind the established conclusions of humanity. But this bill reaches beyond that code into the questionable world of morals—the debatable land of religious beliefs; and, first creating the offense, seeks with malignant fury of partisan prejudice and sectarian hate to measure out the punishment.

The bill before us declares that that system which Moses taught, that God allowed,

and from which Christ, our Savior, sprung, is a crime, and that any man believing in it and practicing it—I beg pardon, the bill, as I shall presently show, asserts that relief alone is sufficient—that any so offending shall not be tried, but shall be convicted, his children declared bastards, his wives turned out to starve, and his property be confiscated, in fact, for the benefit of the moral reformers, who, as I believe, are the real instigators in this matter.

The honorable member from Illinois, the father of this bill, informs us that this is a crime abhorred by men, denounced by God, and prohibited and punished by every State in the Union. I have a profound respect for the motives of the honorable member. I believe he is inspired by a sincere hostility to that which he so earnestly denounces. No earthly inducement could make him practice polygamy. Seduction, in the eyes of thousands, is an indiscretion, where all the punishment falls upon the innocent and unoffending. The criminal taint attaches when the seducer attempts to marry his victim. This is horrid. This is not to be endured by man or God, and laws must be promulgated to prevent and punish.

While I have this profound regard for the morals and motives of the honorable member, I must say that I do not respect, to the same extent, his legal abilities. Polygamy is not denounced by every State and Territory, and the gentleman will search in vain for the statute or criminal code of either defining its existence and punishment. The gentleman confounds a religious belief with a criminal act. He is thinking of bigamy when he denounces polygamy, and in the confusion that follows, blindly strikes out against an unknown enemy. Will he permit me to call his attention to the distinction? Bigamy means the wrong done a woman by imposing upon her the forms of matrimony while another wife lives, rendering such second marriage null and void. The reputation and happiness of a too confiding woman is thus forever blasted by the fraudulent acts of her supposed husband, and he is deservedly punished for his crime. Polygamy, on the contrary, is the act of marrying more than one woman, under a belief that a man has a right, lawfully and religiously, so to do, and with the knowledge and consent of both his wives.

I suppose, Mr. Speaker, that in proclaiming the old Jeffersonian doctrine that that Government is best which governs least, I would not have even a minority upon this floor. But when I say that in a system of self-government such as ours, that looks to the purest democracy, and seeks to be a government of the people, for the people, and by the people, we have no room for the guardian, nor, above all, for the master, I can claim the united support of both parties. To have such a government; to retain such in its purest strength, we must leave all questions of morals and religion that lie outside the recognized code of crime to the conscience of the citizen. In an attempt to do otherwise than this, the world's abiding places have been washed with human blood, and its fields made rich with human bones. No government has been found strong enough to stand unshaken above the throes of religious fanaticism when driven to the wall by religious persecution. Ours, sir, would disappear like the "baseless fabric of a vision" before the first blast of such a convulsion. Does the gentleman believe, for example, that in aiming this cruel blow at a handful of earnest followers of the Lord in Utah, he is doing a more justifiable act than would be, in the eyes of a majority of our citizens, a bill to abolish Catholicism, because of its alleged immorality; or a law to annihilate the Jews for that they are Jews, and

therefore obnoxious? Let that evil door once be opened; set sect against sect; let the Bible and the school books give place to the sword and the bayonet, and we will find the humanity of today the humanity of the dark ages, and our beautiful government a mournful dream of the past.

This is not only philosophically true, but, sir, it is historically a fact. In making the appeal, I stand upon the very foundation-stone of our constitutional Government. That they might worship God in accordance with the dictates of conscience, the fathers fled from their homes in Europe to the wilds of America. For this they bore the fatigues or perished in the wilds of a savage-haunted continent; for this they poured out their blood in wars, until every stone in the huge edifice that shelters us as a nation is cemented by the blood of a martyr. Upon this, however, I will not spend my time or yours; a mere statement of the proposition is a conclusive argument from which the people, in their honest instincts, will permit no appeal. In our Constitution, still perfect and fresh as ever, we have a clause that cannot be changed and leave a vestige of a free government. In the original instrument we find this language: "No religious tests shall ever be required as a qualification to any office or public trust under the United States." But this was not considered sufficiently comprehensive for a free people, and subsequently we find it declared, "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

Upon the very threshold of my argument, however, I am met by the advocates of this extraordinary bill with the assumption that polygamy is not entitled to be considered as a portion of our religious faith; that under the Constitution we are to be protected and respected in the enjoyment of our religious faith, but that we are not entitled to consider as a portion thereof the views held by us as a people in reference to the marriage relation. One eminent disputant, as an argument, supposes a case where a religious sect might claim to believe in the rightfulness of murder, and to be protected in the enjoyment of that right. This is not in any sense a parallel case. Murder by all law, human and divine, is a crime; polygamy is not. In a subsequent portion of my remarks, I will show, that not only the authority of the Old Testament writers, but by numerous leading writers of the Christian church, the doctrine of polygamy is justified and approved. The only ground upon which any argument can be maintained that our views of the marriage relation are not to be considered as a portion of our religious faith, is that marriage is a purely civil contract, and therefore outside the province of religious doctrine. No sect of Christians can, however, be found who will carry their beliefs to this extent. The Catholic church, the most ancient of Christian churches, and among the most powerful in numbers of the religious denominations of our country, upon this point is in accord with the Mormon church. Marriage, according to the faith of the Catholic church, is one of its sacraments; is not in any sense a civil contract, but a religious ordinance, and the validity of a divorce granted by a civil court is denied. And not in any Christian church is the marriage contract placed on a par with other civil contracts—with a swap of horses or a partnership in trade. It is a civil contract, in that a court of equity, for certain specified causes, may dissolve it; but not otherwise. Upon the marriage contract is invoked the most solemn sanctions of our Christians; the appointed ministers and servants of God, by their presence and aid, give solemnity and efficiency to the ceremonial, and upon the alli-

ance is invoked the divine guidance and blessing. To most intents and purposes, with every Christian denomination, the marriage ceremony is regarded as a religious ordinance. Upon this point, therefore, and a vital point in the discussion of the question before us, the Catholic church in fact, and the other religious denominations in theory and usual practice, are with the Mormons in their position, that the supervision and control of the marital relation is an integral and essential portion of their religious faith and practice, in the enjoyment of which they are protected by the Constitution.

The Mormon people are a Christian denomination. They believe fully in the Old and New Testaments, in the divinity of Christ's mission, and the upbuilding and triumph of His church. They do not believe, however, that light and guidance from above ceased with the crucifixion on Calvary. On the other hand, they find that in all ages, whenever a necessity therefor existed, God has raised up prophets to speak to the people, and to manifest to them His will and requirements. And they believe that Joseph Smith was such a prophet; that the time had arrived when there was a necessity for further revelation, and through Joseph Smith it was given to the world.

Upon this point of continuous revelation, which is really one of the turning points of the controversy, we are in accord with many of the most eminent divines of the Christian church, and with the most earnest and vigorous thinkers of our own day.

Upon the departure of the Pilgrim Fathers from Holland to America, the Rev. John Robinson, their beloved pastor, preached a farewell sermon, which showed a spirit of mildness and tolerance truly wonderful in that age, and which many who claim to be ministers of God would do well to imitate in this:

"Brethren, we are quickly to part from one another, and whether I may ever live to see your faces on earth any more, the God of heaven only knows; but whether the Lord hath appointed that or not, *I charge you before God and his blessed angels, that you follow me no further than you have seen me follow the Lord Jesus Christ. If God reveal anything to you by any other instrument of His, be as ready to receive it as you were to receive any truth from my ministry;* for I am fully persuaded, I am very confident, that the Lord has *more truth yet to break forth out of His holy word.*

"For my part I cannot sufficiently bewail the condition of the reformed churches, who are come to a period in religion, and will go at present no further than the instruments of their information. The Lutherans cannot be drawn beyond what Luther saw. Whatever part of His will the good God has revealed to Calvin, *they will rather die than embrace it;* and the Calvinists, you see, stick fast where they were left by that *great man of God, who yet saw not all things.*

"This is a misery much to be lamented, for though they were burning and shining lights in their time, *yet they penetrated not into the whole counsel of God;* but were they now living, would be as ready to embrace further light as that which they first received. I beseech you to remember that it is an article of your covenant, that you shall be ready to receive *whatever truths shall be made known to you from the written word of God.*"

And says Ralph Waldo Emerson, in one of his golden utterances, "I look for the hour when that supreme beauty which ravished the souls of those Hebrews and through their lips spoke oracles to all time, shall speak in the West also. The Hebrew and the Greek scriptures contain immortal sentences that have been the bread of life to millions.

But they have no epical entirety; are fragmentary; are not shown in their order to the intellect. I look for the new teacher that shall follow so far these shining laws that he shall see some full circle; shall see their rounding, complete grace; shall see the world to the mirror of the soul."

Conceding, therefore, that new revelation may be at all times expected in the future of our race, as they have been at all times vouchsafed in the past, and the whole controversy ends. A man has arisen named Joseph Smith, he claims to be a prophet of God, and a numerous community see fit to admit the justice of such claim. It is a religious sect; it has today vindicated its right to live by works and sacrifices which are the admiration even of its enemies. It brings forward certain new doctrines; of church government; of baptism even for their dead; of the marriage relation. Upon what point is it more probable that light from above would be given to our race, than upon the marriage relation? The social problem is the question of the age. The minds of many of the foremost men and women of our days are given to the study of the proper position and relations of the sexes. The wisest differ—differ honestly and unavoidably. Endless is the dispute and clamor of those honestly striving to do away with the social evil; to ameliorate the anomalous condition of the wronged and suffering women of today. And while this is so; while thousands of the good and pure of all creeds and parties are invoking the divine guidance in their efforts for the good of our fallen humanity, is it strange that the divine guidance thus earnestly besought should come—that the prayer of the righteous be answered? The Mormon people believe that God has thus spoken; that through Joseph Smith He has indicated that true solution of the social questions of our day; and while they persecute or question no man for differing honestly with them as to the divine authority of such revelations, they firmly insist that in their following of what they believe to be the will of God, they are entitled to the same immunity from persecution at the hands of the Government, and the same liberty of thought and speech, wisely secured to other religious beliefs by the Constitution.

Upon the point whether polygamy can properly be considered as a part of our religious faith and practice, I beg leave humbly further to submit, sir, that the decision rests solely on the conscience and belief of the man and woman who proclaim it to be a religious belief. As I have said, it is not numbered among the crimes of that code recognized by all nations having any form of government under which criminals are restrained or punished, and to make it such, a new code must be framed. My people proclaim polygamy as a part of their religious belief. If they are honest in this, however much this may be in error, they stand on their rights under the Constitution, and to arrest that error you must appeal to reason, and not to force. I am here, not to argue or demonstrate the truthfulness of their faith; I am not called upon to convince this honorable House that it is either true or false; but if I can convince you that this belief is honorably and sincerely entertained, my object is accomplished.

It is common to teach, and thousands believe that the leaders of the sect of Latter-day Saints, popularly known as Mormons, are hypocrites, while their followers are either ignorant, deluded men and women, or people held to their organization by the vilest impulses of lust. To refute these slanders, I can only do as the earlier Christians did, point to their sufferings and sacrifices, and I may add, the unanimous testimony of all,

that aside from what they consider the objectionable practice of polygamy, my constituents are sober, moral, just, and industrious in the eyes of all impartial witnesses. In this community, removed by long reaches of wastes from the moral influences of civilization, we have a quiet, orderly and Christian community. Our towns are without gambling hells, drinking saloons or brothels, while from end to end of our Territory the innocent can walk unharmed at all hours. Nor is this due to an organized police, but to the kind natures and Christian impulses of a good people. In support of my argument of their entire sincerity, I with confidence appeal to their history.

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Thus, Mr. Speaker, three times did this persecuted people before their location in Utah, build up for themselves pleasant and prosperous homes, and by their industry surrounded themselves with all the comforts and appliances of wealth; and three times were they by an unprincipled and outrageous mob, driven from their possessions, and reduced to abject poverty. And bear it in mind, that in every instance the leader of these organized mobs offered to all who would abandon and deny their faith, toleration and the possession of their homes and wealth. But they refused the tempting snare. They rejoiced that they were thought worthy to suffer for the Master, and, rather than to deny their faith, they welcomed privation; they sacrificed all that earth could offer; they died the saintly martyr's death.

Mr. Speaker, is this shining record that of a community of hypocrites? What other Christian denomination of our country can show higher evidences of earnestness, of devoted self-sacrifice for the preservation of their religious faith?

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Now, sir, far be it from me to undertake to teach this learned House, and above all, the Hon. Chairman of the Committee on Territories great theological truths. If there be any subject with which this honorable body is especially conversant, it is theology. I have heard more scripture quoted here, and more morality taught, than in any other place it was my fortune to serve. With great diffidence then, I venture to suggest to the supporters of this bill, that while polygamy had its origin in holy writ, taught as I have said before by the greatest of all law-makers, and not only tolerated, but explicitly commanded by the Almighty, as I shall presently show, monogamy, or the system of marriage now recognized by so many Christian nations, originated among the Pagans of ancient Greece and Rome.

I know, sir, that the report accompanying the bill fetches vast stores of theological information to bear; informs us that polygamy is contrary to the Divine economy, and refers to the marriage of the first human couple, and cites the further testimony of the Bible, and that of the history of the world. Setting aside the last named as slightly too voluminous for critical examination in the present discussion, we will take up, as briefly as possible, the Divine authorities, and the commentaries and discussions thereon by eminent Christian writers, and see how far my people have been misled by clinging to them. As for the illustrious example quoted of our first parents, all that can be said of their marriage is that it was exhaustive. Adam married all the women in the world, and if we find teaching by the example, we must go among his descendants, where examples can be found among the favored people of God, whose laws were of divine origin, and whose conduct received sanction or punishment at his hands.

At the period of the Reformation in Germany, during the early part of the 16th century, those great reformers, Luther, Melancthon, Zwingle and Bucer, held a solemn consultation at Wittenburg, on the question, "Whether it is contrary to the divine law for a man to have two wives at once?" and decided unanimously that it was not; and upon the authority of the decision, Philip, Landgrave of Hesse, actually married a second wife, his first being still alive. This fact is recorded in D'Aubigne's History of the Reformation, and by other authors of that period.

Dr. Hugo Grotius, a celebrated Dutch jurist and statesman and most eminent law-writer of the seventeenth century, states "the Jew's laws allow a plurality of wives to one man."

Hon. John Selden, a distinguished English author and statesman, a member of Parliament for 1624, and who represented the University of Oxford in the Long Parliament, in his work entitled, "Uxor Hebraica," the Hebrew Wife, says that "polygamy was allowed, not only among the Hebrews, but in most other nations throughout the world; and that monogamy is a modern and a European custom, almost unknown to the ancient world."

Dr. Samuel Puffendorf, professor of law in the University of Heidelberg, in Germany, and afterwards of Lund, in Sweden, who wrote during the latter part of the seventeenth century, in his great work on the law of nature and nations, says that "the Mosaic law was so far from forbidding this custom (polygamy) that it seems in several places to suppose it;" and in another place he says, in reference to the rightfulness thereof, "the polygamy of the *fathers*, under the old covenant, is an argument which ingenious men must confess to be unanswerable."

Rev. Gilbert Burnet, Bishop of Salisbury, the particular friend of William III., who was eminent among both historians and theologians, wrote a tract upon this subject, near the beginning of the eighteenth century. The tract was written on the question, "Is a plurality of wives in any case lawful under the gospel?"

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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 Hindostan, published a work in 1856, entitled "India, Ancient and Modern," in which he says, pp. 551-3:

"Polygamy is practiced 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 receiving polygamy as morally wrong, they not unfrequently take a second or 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 consultation 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 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 Hindostan is an integral part of that empire, as much so as its American provinces are, or as Ireland is. Hindostan 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 Portugese, 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 religions 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 doctrine. 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 Luthers, the Melancthons, the Whitfields of today, have wiped out the immorality, licentiousness and crime of 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 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 tenth 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 has been committed, the whole community came together and sat in judgment upon the offender. This process becoming cumbersome as the 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 principal 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 own 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 by the provisions 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 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 offense 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 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 offense 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 trial by 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 offense is committed, is not adjudged to have been guilty of a crime. This most unconstitutional and wicked bill before us, defies all these well established principles and strikes at the root of the dearest right 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 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 more damnable in its provisions, and more 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.

* * * * *

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 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 nought."

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, etc., 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 of, 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. 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 up 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.

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.

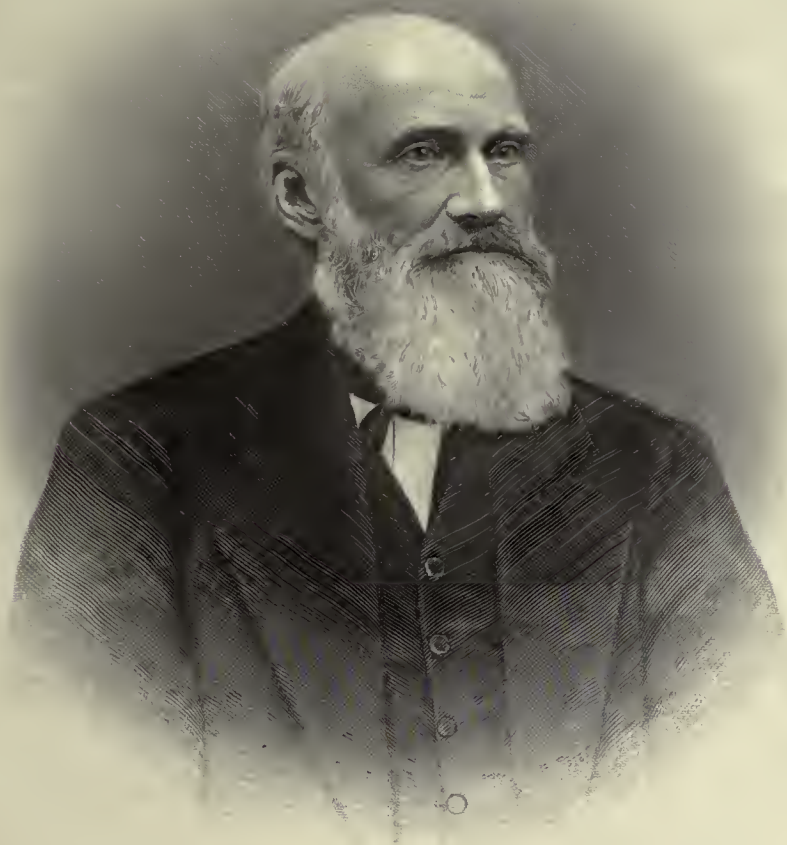
5. That of our sincerity we have both by words, and works, and sufferings, given for nearly forty years abundant proof.

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 the age.

It is not permitted, Mr. Speaker, that any one man should sit as the judge of another 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 worshipers, 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 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 guarantee of the Constitution, and the blind Samson, breaking the pillars, pulls down upon friend and foe alike the ruins of the State.

The Cullom bill, shorn of some of its repulsive features, but retaining a sufficient number of them to make it a hideous enactment, passed the House of Representatives by a vote of ninety-four to thirty-two. The parts omitted were Section 11, making the lawful wife of an accused polygamist a competent witness against him; Section 14, providing that the statute of limitations should be no bar to a prosecution; Section 30, authorizing the confiscation of the property of persons convicted; Section 31, for the temporary relief of persons reduced to destitution by the enforcement of the act, and Section 32, authorizing the employment of forty thousand volunteers to assist in its enforcement.



Engr. J. H. Hill & Son, New York

J. R. H. Harper

The news of the passage of the act by the House, being telegraphed to Utah, created a profound sensation. There was no excitement, at least none of outward exhibition—such would not have been characteristic of the Mormon people—but to say that a deep and widespread sentiment of indignation if not of alarm was felt throughout the community, is but to state the simple truth. Mass meetings were held all over the Territory to protest against the action of the House, and appeal to the Senate to not permit the iniquitous measure to become law. An immense gathering convened for this purpose in the Tabernacle at Salt Lake City on Thursday, March 31st, at 1 p. m. Every seat was packed with spectators, and crowds of eager listeners stood in the aisles, at the doorways, and upon the outside of the building. On motion of Hon. John Taylor, Mayor Wells was called to preside over the meeting. The following named gentlemen were chosen vice-presidents: Hons. John M. Bernhisel, John Taylor, Orson Pratt, Joseph A. Young, Wilford Woodruff, George Q. Cannon and Joseph F. Smith. The secretaries of the meeting were Robert L. Campbell, Paul A. Schettler, Theodore McKean and David McKenzie. David W. Evans and E. L. Sloan acted as reporters. After prayer by the chaplain—Elder Jesse Haven—a committee of thirteen, appointed at a preliminary meeting, presented, by the chairman, Hon. D. H. Wells, the following remonstrance and resolutions, which were read to the vast assemblage by Hon. George Q. Cannon:

REMONSTRANCE.

To the Honorable the Senate and House of Representatives of the United States, in Congress Assembled,

GENTLEMEN:—It is with no ordinary concern that we have learned of the passage by the House of Representatives of the House Bill No. 1,089, entitled "A bill in aid of the execution of the laws in Utah, and for other purposes," commonly known as "The Cullom Bill," against which we desire to enter our most earnest and unqualified protest, and appeal against its passage by the Senate of the United States, or beg its reconsideration by the House of Representatives. We are sure you will bear with us while we present for your consideration some of the reasons why this bill should not become law.

Gentlemen of the Senate and House of Representatives, of the 150,000 estimated population of the Territory of Utah, it is well known that all except from 5,000 to 10,000

are members of the Church of Jesus Christ of Latter-day Saints, usually called Mormons. These are essentially the people of this Territory, they have settled it, reclaimed the desert waste, cultivated it, subdued the Indians, opened means of communication, made roads, built cities, and brought into being a new State to add lustre to the national galaxy of our glorious Union. And we, the people who have done this are believers in the principle of plural marriage or polygamy, not simply as an elevating social relationship, and a preventive of many terrible evils which afflict our race, but as a principle revealed by God, underlying our every hope of eternal salvation and happiness in heaven. We believe in the pre-existence of the spirits of men; that God is the author of our being; that marriage is ordained as the legitimate source by which mankind obtain an existence in this probation on the earth; that the marriage relation exists and extends throughout eternity, and that without it no man can obtain an exaltation in the celestial kingdom of God. The revelation commanding the principle of plural marriage, given by God through Joseph Smith, to the Church of Jesus Christ of Latter-day Saints, in its first paragraph has the following language: "Behold, I reveal unto you a new and everlasting covenant; and if ye abide not that covenant, then are ye damned; for none can reject this covenant and be permitted to enter into my glory." With this language before us, we cannot view plural marriage in any other light than as a vital principle of our religion. Let the revelation appear in the eyes of others as it may, to us it is a divine command, of equal force with any ever given by the Creator of the world to His children in the flesh.

The Bible confessedly stands in our nation as the foundation on which all law is based. It is the fountain from which our ideas of right and wrong are drawn, and it gives shape and force to our morality; yet it sustains plural marriage, and in no instance does it condemn that institution. Not only having, therefore, a revelation from God making the belief and practice of this principle obligatory upon us, we have the warrant of the Holy Scriptures and the examples of prophets and righteous men whom God loved, honored and blessed. And it should be borne in mind that when this principle was promulgated, and the people of this Territory entered upon its practice, it was not a crime. God revealed it to us. His divine word, as contained in the Bible which we have been taught to venerate and regard as holy, upheld it, and there was no law applicable to us making our belief or practice of it criminal. It is no crime in this Territory today, only as the law of 1862, passed long years after our adoption of this principle as part of our religious faith, makes it such. The law of 1862 is now a fact; one proscription gives strength to another. What yesterday was opinion is liable today to be law. It is for this reason that we earnestly and respectfully remonstrate and protest against the passage of the bill now before the Honorable Senate, feeling assured that, while it cannot accomplish any possible good it may result in a great amount of misery.

It gives us no alternative but the cruel one of rejecting God's command and abjuring our religion, or disobeying the authority of a Government we desire to honor and respect.

It is in direct violation of the first amendment of the Constitution, which declares that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

It robs our priesthood of their functions and heaven-bestowed powers, and gives them to justices of the supreme court, justices of the peace and priests whose authority

we cannot recognize by empowering such as the only ones to celebrate marriage. As well might the law prescribe who shall baptize for the remission of sins, or lay on hands for the reception of the Holy Ghost.

It encourages fornication and adultery, for all such marriages would be deemed invalid and without any sacred or binding force by our community, and those thus united together would, according to their own belief and religious convictions, be living in a condition of habitual adultery, which would bring the holy relation of marriage into disrepute, and destroy the safeguards of chastity and virtue.

It is unconstitutional in that it is in direct opposition to Section 9, Article I, of the Constitution, which provides that "no bill of attainder, or *ex post facto* law shall be passed."

It destroys the right of trial by jury, providing for the empaneling of juries composed of individuals the recognized enemies of the accused, and of foreigners to the district where a case under it is to be tried; while the Sixth Amendment to the Constitution provides 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."

It is contrary to the Eighth Amendment to the Constitution, which provides that excessive fines shall not be imposed, "nor cruel and unusual punishments inflicted."

It violates Section 8, Article 1, of the Constitution, which provides that Congress shall establish a uniform rule of naturalization throughout the United States, in that it provides, in Section 17, a new, unheard of, and special rule, applicable only to the Territory of Utah.

It is anti-republican, in that in Section 10 it places men on unequal ground, by giving one portion of the citizens superior privileges over others, because of their belief.

It strips us, in Sections 17 and 26, of the land we have reclaimed from barrenness, and which we have paid Government for; also of all possessory rights to which we are entitled as settlers.

It authorizes, by Section 14, the sending of criminals into distant military camps and prisons.

It is most unjust, unconstitutional, and proscriptive, in that it disfranchises and proscribes American citizens for no act, but simply believing in plurality of wives, which the bill styles polygamy, bigamy, or concubinage, even if they never have practiced or designed to practice it.

It offers a premium for prostitution and corruption, in that it requires, in Sections 11 and 12, husbands and wives to violate the holiest vows they can make, and voluntarily bastardize their own children.

It declares in Section 21 marriage to be a civil contract, and names the officers who alone shall solemnize the rite, when our faith expressly holds it as a most sacred ordinance, which can only be administered by those holding the authority from heaven; thus compelling us to discriminate in favor of officers appointed by the Government and against officers appointed by the Almighty.

It thus takes away the right of conscience, and deprives us of an ordinance upon the correct administration of which our happiness and eternal salvation depend.

It not only subverts religious liberty, but, in Sections 16 and 19, violates every principle of civil liberty and true republicanism, in that it bestows upon the Governor the sole authority to govern jails and prisons, and to remove their wardens and keepers; to appoint and remove probate judges, justices of the peace, judges of all elections, notaries public and all sheriffs; clothing one man with despotic and, in this Republic, unheard-of power.

It thus deprives the people of all voice in the government of the Territory, reduces them to absolute vassalage, creates a dangerous, irresponsible and centralized despotism, from which there is no appeal, and leaves their lives, liberties and human rights subject to the caprice of one man, and that man selected and sent here from afar.

It proposes, in Sections 11, 12 and 17, to punish American citizens, not for wrongs, but for acts sanctioned by God, and practiced by His most favored servants, requiring them to call those bad men whom God chose for his oracles and delighted to honor, and even to cast reflections on the ancestry of the Savior Himself.

It strikes at the foundation of all republican government, in that it dictates opinions and belief, prescribes what shall and shall not be believed by citizens, and assumes to decide on the validity of revelation from Almighty God, the author of existence.

It disorganizes and reduces to a chaotic condition every precinct, city and county in the Territory of Utah, and substitutes no adequate organization. It subverts, by summary process, nearly every law on our statute book.

It violates the faith of the United States, in that it breaks the original compact made with the people of this Territory in the Organic Act, who were, at the time that compact was made, received as citizens from Mexican Territory, and known to be believers in the doctrines of the Church of Jesus Christ of Latter-day Saints.

We also wish your honorable bodies to understand that the legislature of this Territory has never passed any law affecting the primary disposal of the soil, but only adopted regulations for the controlling of our claims and possessions, upon which improvements to the amount of millions of dollars have been made.

This bill, in Section 36, repeals the law of the Territory containing said regulations, thereby leaving us destitute of legal protection to our hard-earned possessions, the accumulated labor of over twenty years, and exposing us to the mercy of land speculators and vampires.

Gentlemen of the Senate and House of Representatives, this bill would deprive us of religious liberty and every political right worth having, is not directed against the people of Utah as men and women, but against their holy religion. Eighteen years ago, and ten years before the passage of this Anti-Polygamy Act of 1862, one of our leading men, Elder Orson Pratt, was expressly deputed and sent to the city of Washington, D. C., to publish and lecture on the principle of patriarchal or plural marriage as practiced by us.

He lectured frequently in that and other cities, and published a paper for some length of time, in which he established, by elaborate and convincing arguments, the divinity of the revelation commanding plural marriage, given through the Prophet Joseph Smith, and that the doctrine was sanctioned and endorsed by the highest Biblical authority. For ten years before the passage of the Act of 1862, this doctrine was widely preached throughout the Union and the world, and it was universally known and recognized as a principle of our holy faith. We are thus explicit in mentioning this fact to show that

patriarchal marriage has long been understood to be a cardinal point of our religion. We would respectfully mention, also in this connection, that while hundreds of our leading Elders have been in the eastern States and in the city of Washington, not one of them has been cited to appear as a witness before the Committees on Territories, to prove that this doctrine is a part of our religion; gentlemen well knowing that if that were established, the law would be null and void, because of its unconstitutionality.

What we have done to enhance the greatness and glory of our country by pioneering, opening up, and making habitable the vast western region, is before the nation, and should receive a nation's thanks, not a proscriptive edict to rob us of every right worth possessing, and of the very soil we have reclaimed and then purchased from the Government. Before this soil was United States territory we settled it, and five hundred of our best men responded to the call of the Government in the war with Mexico, and assisted in adding to our national domain. When we were received into the Union our religion was known; our early officers, including our first governor, were all Latter-day Saints, or Mormons, for there were few others to elect from; we were treated as citizens possessing equal rights, and the original bond of agreement between the United States Government and the people inhabiting this Territory, conferred upon us the right of self-government in the same degree as is enjoyed by any other Territory in the Union.

It is declared that the power of the legislature of this Territory, "shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States and the provisions of the Organic Act; and the right of suffrage, and holding office shall be exercised by citizens of the United States," including those recognized as citizens by the treaty with the Republic of Mexico, concluded February 2nd, 1848. This compact or agreement we have preserved inviolate on our part, and we respectfully submit that it is not in the power of any legislature or congress, legally and constitutionally, to abrogate and annul such an agreement as the organic law, which this bill proposes to do, without the consent of both parties. Our property, lands, and buildings, private and public, are to be confiscated; our rights of citizenship destroyed; our men and women subjected to excessive pains and penalties, because we believe in and practice a principle taught by the Bible, commanded by divine revelation to us, and sustained by the Christian monarchies of Great Britain and France among millions of their subjects in their territories of India and Algeria.

We earnestly, we solemnly appeal to you not to permit this iniquitous, unjustly discriminating and anti-republican measure to become law, and that, too, in violation of the Constitution, by which one hundred and fifty thousand industrious, peaceable and orderly persons will be driven to the desperate necessity of disobeying Almighty God, the governor of the universe, or of subjecting themselves to the pains and penalties of this act, which would be worse than death.

We beseech of you, gentlemen, do not, by the passage of harsh and despotic measures, drive an inoffensive, God-fearing and loyal people to desperation.

We have suffered, God knows how much, in years past, for our religion. We fled to the mountain wilds to escape the ruthless hand of persecution; and shall it be said now that our Government, which ought to foster and protect us, designs to repeat, in the most aggravated form the miseries we have been called upon to pass through before?

What evidence can we give you that plural marriage is a part of our religion, other than what we have done by our public teaching and publishing for years past? If your honorable bodies are not satisfied with what we now present, and what we have previously published to the world, we beseech you, in the name of our common country and those sacred principles bequeathed unto us by our revolutionary fathers, in the name of humanity and in the name of Almighty God, before making this act a law, to send to this Territory a commission clothed with the necessary authority to take evidence and make a thorough and exhaustive investigation into the subject, and obtain evidence concerning the belief and workings of our religious system, from its friends instead of its enemies.

RESOLUTIONS.

First. *Resolved*, That the Supreme Ruler of the Universe has the right to command man in the concerns of life, and that it is man's duty to obey.

Second, *Whereas*, According to the positive knowledge of a large number of persons now assembled, the doctrine of celestial marriage, or plurality of wives, was revealed to the Prophet Joseph Smith, and by him established in the Church of Jesus Christ of Latter-day Saints as a revealed law of God; therefore be it

Resolved, That we, the members of said Church, in General Mass Meeting assembled, do now most earnestly and solemnly declare before Almighty God that we hold that said order of marriage is a cardinal principle of our religious faith, affecting us not only for time, but for all eternity, and as sacred and binding as any other principle of the Holy Gospel of the Son of God.

Third. *Resolved*, That celestial marriage, or plurality of wives, is that principle of our holy religion which confers on man the power of endless lives, or eternal increase, and is therefore beyond the purview of legislative enactment; the woman being married to the man for all eternity, by authority of the Holy Priesthood, delegated from God to him.

Fourth. *Resolved*, That marriage is enjoined upon man both by revealed and natural laws.

Fifth. *Resolved*, That the practice of plural marriage in this Territory was not a crime, nor in violation of any Constitutional or divine law. In 1862 it was first declared to be otherwise by Congressional enactment, and never by any act of ours.

Sixth. *Resolved*, That we concur with the Roman Catholic Church, the Greek Church, the Church of England, and other religious denominations, in believing marriage to be a religious ordinance, and we believe it to be unconstitutional to proscribe our consciences by legislative enactment, or to declare it a civil contract only. "What God hath joined together let no man put asunder." If not allowed to be Saints, at least permit us to be Christians.

Seventh. *Resolved*, That the passage of a law which compels husbands to abandon their wives, parents their children, and absolves those solemn covenants by which they are eternally bound to each other in their associations, would be not only a reproach upon civilized government, but in direct violation of the law of God, and when made applicable to only one Territory, is partial legislation and a flagrant act of persecution.

Eighth. *Resolved*, That, while we thank the American Bible Society for sending us

the word of God, we think it a strange inconsistency for a Christian nation, which has received its Bible from inspired men who were polygamists, to send that Bible to us, and then proscribe and disfranchise us for following the precepts thereof and the practices of its inspired prophets.

Ninth. *Resolved*, That while England and France, both civilized and Christian nations, tolerate and protect over a hundred millions of polygamists in their Territories in India and Algeria, it is invidious, ungenerous and proscriptive for enlightened and republican America not to allow in her Territories the same freedom enjoyed under the government of those monarchies.

Tenth. *Resolved*, That religious and civil liberty are both essential to the perpetuity of Republican government, and that in destroying one you destroy the other.

Eleventh. *Resolved*, That we tender to God, our Father in heaven, our most sincere and hearty thanks for His great blessings and kindness to our fathers in inspiring them to establish the Constitution of the United States on the basis of civil and religious liberty, and that He put it into their hearts to make that instrument the Supreme Law, which should not in any emergency be transcended, and by which all should be bound.

Twelfth. *Resolved*, That forty millions of enlightened American citizens, with half a million of priests, philanthropists and editors, ought to be able to control, without the aid of legislative enactment, an institution, which they call objectionable and immoral, through the influence of religion, the power of the press, and moral suasion, against one hundred and fifty thousand people who consider it a divine institution.

Speeches were then made by Hons. Orson Pratt, John Taylor, George Q. Cannon and others, and the memorial and resolutions having been unanimously adopted, the meeting adjourned.

About the time that this gathering convened, another meeting, not of Mormons, but of Godbeites and conservative Gentiles, assembled at Salt Lake City for a similar purpose. It was a private meeting, only such as had received invitations being admitted. The place of assembly was the Masonic Hall, East Temple Street. Among those present were General George R. Maxwell and Colonel G. B. Overton, of the U. S. Land Office; J. M. Orr, Esq., U. S. Marshal; Thomas Marshall, J. W. Carter, R. H. Robertson, Esqs., attorneys; J. R. Walker, Samuel Kahn, Warren Hussey, Gentile business men of the city; Messrs. Eli B. Kelsey, E. L. T. Harrison, Henry W. Lawrence, William H. Shearman, E. W. Tullidge, T. B. H. Stenhouse and others representing the New Movement. William Jennings, Esq., was also present. The object in view was not to protest against the Cullom bill in its entirety, but to consider the propriety of memorial-

izing Congress for such a modification of the proposed act as would render its provisions inapplicable to all polygamous marriages and associations entered into prior to its passage. The significant fact in this connection is that several of the New Movement leaders, such as Messrs. Godbe, Lawrence, Kelsey and Stenhouse—though the last-named, while a seceder from Mormonism, does not appear to have formally identified himself with the Godbeites—were polygamists, and were not disposed, any more than their late brethren of the Church, to turn their plural wives and children out of doors, as so many Hagars and Ishmaels, even at the dictum of Congress. The local Gentiles, being interested in the success of the “schism,” would not in a body take issue with their ex-Mormon allies, nor were they, as a rule, unfeeling enough to wish to see the Cullom bill, in the shape that it had passed the House, receive the sanction of the Senate. From motives humanitarian as well as politic they therefore stood in with their Godbeite associates. Some of the Gentiles, however—the radical anti-Mormons—had no such compunctions. Politic they were willing to be, but not humanitarian,—not in relation to Mormonism,—and such was their hatred of the system and all connected with it, that some would not, even for policy’s sake, join with the conservatives in their movement for the modification of the Cullom bill. Among the most pronounced of the radicals were R. N. Baskin, Esq., attorney-at-law, who was believed by many to have framed the Cullom bill; Colonel O. J. Hollister, U. S. Revenue Collector for Utah, and General George R. Maxwell, Register of the Land Office.

At the meeting mentioned, Mr. R. H. Robertson was elected chairman. He invited a general discussion of the subject which had brought them together, and called upon Mr. Eli B. Kelsey to present it.

Mr Kelsey briefly stated the purpose of the meeting, and reviewed the course which Congress had adopted since the passage of the act of 1862, and the belief among the people that no steps would be taken with reference to the enforcement of the anti-polygamy

law. He, therefore, considered Congress responsible, to an extent, for the present feelings of the people on that subject. He bore testimony to his desire to uphold the laws and the influence of the government among the people, but he could not ask people to break up their families and bastardize their children.

Mr. E. L. T. Harrison said that he came to that meeting upon invitation. The object of it he understood to be to see if we could unite upon a memorial to be addressed to the Senate, requesting such modification of the Cullom bill as would except all marriages entered into before the passage of the bill. So far as the abstract principle of polygamy went, he did not believe in the interference of the Government on such a subject, as he believed that the people of Utah, and all other Territories, were perfectly capable of adjusting all such relations themselves. Still, inasmuch as the Government is not of his opinion, and he desired to sustain law and order, he would join in any resolution to Congress expressive of a desire for a modification. He would do this not only out of justice to the people, but because he believed that it would be in the interest of the Government. He considered such a modification would greatly tend to promote a loyal and grateful feeling among the people, and do much to bring about that harmony between the Government and the people of Utah which was so desirable.

Mr. Gordon did not believe in memorializing Congress. If God originated polygamy He could take care of it. If not, he was not anxious to have it stand. He was ready to take his own share of the risk.

Mr. T. B. H. Stenhouse sustained Mr. Kelsey's position. If there had been a wrong in the past conduct of the Mormons, with respect to the violation of the act of 1862, he considered Government equally as culpable as the people by their neglect on the subject. He heard Mr. Lincoln say himself that if the Mormons let him alone he would let them alone. He, Mr. S., would join in soliciting for a modification of the act. There were many points to which the attention of Government ought to be called. One was that the circumstances of

the people would not permit a separate provision for their families, were they ever so disposed to obey that part of the act; and that the carrying out of its provisions so far as existing polygamous families were concerned, would involve the people in an amount of loss and suffering of which the Government had no conception.

Mr. W. H. Shearman said that it was not the object of the meeting to attempt to "dictate" to Congress, as one of the speakers had intimated, but simply to appeal in a respectful and kindly manner to the justice and humanity of its members. He (Mr. S.) would feel just as opposed to the bill were it aimed at any other people than the Mormons, because he considered it unjust, unconstitutional and impolitic, and, as an American citizen, he felt that he had a perfect right to discuss or dissent from any measures of the Government. He regretted that the people of Utah had, by their past unwise course, aroused the antagonism of the nation, but the provisions of this bill were unworthy of so great and magnanimous a government as ours. A gentleman [Mr. Robertson] had referred to the forcible abolition of slavery as a precedent; but it should be remembered that Congress never interfered with that until it became absolutely necessary to do so to preserve the life of the nation from those who were in arms seeking its destruction, and that if the South had submitted sooner, slavery would not have been abolished in the way it was. But the Mormons were not in arms, and had no disposition to rebel; he, therefore, felt that they were entitled to the kindly consideration of the Government as children to that of a father. One of his most serious objections to this bill was, that while compiled professedly in behalf of woman, it in reality made her the sufferer and the scape-goat, as it gave every unprincipled man the right to kick his wives and children out of doors without provision or redress. In conclusion he said that all he desired to ask Congress was to so modify the bill as not to interfere with existing social contracts, and thus save the innocent and defenseless from untold misery.

Mr. E. W. Tullidge said: What we ought to do was most clear—namely, to obey the laws of our country. It was not becoming in us

to cavil with this nation; and to talk of resistance to her will was not only extravagant, touching our own strength, but decidedly wrong in principle. It is a fundamental requirement that individuals and communities must obey the laws of the State. The right of conscience in religious matters cannot be allowed when it sets aside the laws of the land and the expressed will of a nation; and we, as a people, have only the same rights in this as other religious communities. Nevertheless, Congress, in adjusting this most delicate and complicated matter, should manifest the magnanimity becoming her humane character, and the same admirable administration of justice as in the past. The South had been pardoned after a rebellion; and, through the generousities of the nation, even Jeff Davis was forgiven and at large. Should the nation, then, be less magnanimous to this God-fearing people,—who, if they have erred, have done so through the force of a religious faith and conscience such as have often led earnest men to the stake? He would emphatically appeal to this nation on behalf of the women, whom Congress believed to have been martyred by polygamy, and would pray that a new martyrdom might not be inflicted upon them by its special legislation, making them dishonored wives and dishonored mothers. He, therefore, proposed that we petition the Senate for a reconsideration and generous modification of the Cullom bill.

General Maxwell stated his unwillingness to make any such request of Congress, but said that he would join in any effort to have the land and disfranchising clauses so modified as not to injure any who were disposed to be loyal to the government.

Mr. Marshall, of the firm of Marshall & Carter, said that he was glad of the opportunity of expressing himself in relation to the Cullom bill. He wished it distinctly understood that he was opposed to polygamy and would favor any measure which confined itself to stopping the spread of the practice. For this reason he decidedly approved the main measures of the bill, provided existing relationships were not interfered with. He testified to his personal knowledge of the virtue, integrity, and loyalty of many gentlemen

who were already practicing polygamy in Utah, and although he believed it to be a very great evil he felt that it would be a still greater evil to break up family associations already formed. To do the latter he realized would be productive of great suffering and wrong, and, therefore, he should put his name to the proposed petition even if it stood there alone.

Messrs. Henry Lawrence and William Jennings expressed their readiness to co-operate with gentlemen in any measures that would be mutually satisfactory and beneficial to the people of Utah and the government of the nation, but they had no desire to ask any one to move in this matter except upon the broad ground of humanity and justice.

Several other speeches were made, and a committee of seven was then appointed to draft and forward to Congress a memorial for such modifications of the Cullom bill as would meet the approval of the prominent non-Mormons. This committee consisted of Messrs. J. R. Walker, J. M. Carter, Samuel Kahn, R. H. Robertson, Warren N. Hussey, Thomas Marshall and O. J. Hollister. Mr. Hollister, who was not present at the meeting, and had "authorized no one to make such use of his name," subsequently declined to act, and Bishop Tuttle, of the Episcopal Church, kindly consented to fill his place on the committee.

Mr. Godbe, the New Movement leader, does not seem to have been present at this meeting, called by his confreres and their Gentile associates. Early in March he had undertaken a mission to the City of Washington, preceded by a budget of documents relating to Utah affairs, sent by the Godbeite leaders through Government officers to the President, and carrying letters of introduction to influential persons at the capital. Mr. Godbe had an interview with Vice-President Colfax, and by him was introduced to President Grant.

The Utah question was frankly and thoroughly discussed, and Mr. Godbe took pains to acquaint the nation's chief with the true status of affairs in the Territory and pleaded for kindly treatment

of the Mormon people by the general government. The President was much interested in what was told him, and observed during the conversation that he was as anxious as anyone to save the Mormon people, and would save them from their "dangerous leaders," and that if more troops were sent to Utah they would be designed merely as a "moral force" to give those leaders to understand that the nation intended to enforce her laws in the Territory. Mr. Godbe, having done all in his power to mollify the heads of the Government and cause them to think more favorably of Utah, returned home; not, however, before seeking and securing an interview with General Cullom, and placing before him the local question and situation in such a light as to cause even that determined opponent of the Mormons to consider less kindly the obnoxious measure that he had fathered to their prospective enslavement if not annihilation. The result of all these movements was that the Cullom Bill, after its passage by the House of Representatives, died, like its predecessor, the Cragin Bill, in the Senate, to the infinite satisfaction of the friends of Utah everywhere, and the corresponding chagrin and disappointment of her enemies.

CHAPTER XVII.

1870.

THE PRATT-NEWMAN DISCUSSION—"DOES THE BIBLE SANCTION POLYGAMY"—MORMONISM VERSUS METHODISM—PRELIMINARY CORRESPONDENCE BETWEEN PRESIDENT YOUNG AND DOCTOR NEWMAN—THE GREAT DEBATE IN THE MORMON TABERNACLE—PRESS COMMENTS ON THE EVENT AND ITS RESULT.

ANOTHER act in the religio-political drama of the Colfax-Cullom period was the celebrated Pratt-Newman discussion on the subject of the Bible and Polygamy. It occurred at Salt Lake City in the summer of 1870. The contestants in the great debate, which attained a celebrity as world-wide as Christendom, and wherever telegraphs or newspapers were known, were Elder Orson Pratt, one of the Twelve Apostles of the Church of Jesus Christ of Latter-day Saints, and Dr. John P. Newman, Chaplain of the United States Senate, and pastor of the Metropolitan Methodist Church at Washington.

The origin of the event was as follows. Dr. Newman, during the discussion in Congress over the Cullom bill, and especially after the speech of the Utah delegate,—who in the course of his argument against that measure cited many passages of scripture in support of the doctrine of plurality of wives,—had become very much exercised upon the subject. Jealous, perhaps, that the Mormon side of the question had been so prominently and thoroughly presented, while Methodism had had no such opportunity to advance its opposing views, and claiming that the Scriptures were wrested and perverted by those who cited any portion of them to sustain the tenet or practice of polygamy, he forthwith began preaching upon the theme to his fashionable Sabbath congregations. His sermons were published in the New York *Herald*, and being

perused were replied to by Apostle Orson Pratt, of Salt Lake City. This controversy was republished in the *Deseret News*, and eventually appeared in pamphlet form at the Utah capital. Dr. Newman took the ground that the Bible does not sustain polygamy,—that is, the taking of plural wives,—but on the contrary that it expressly condemns it. He doubtless succeeded in convincing the majority of his hearers, who were believers in monogamy, that his position on that point was impregnable. Such as he did not convince he probably silenced with his oratory; for the Doctor was an eloquent speaker, and though egotistical and pedantic to a degree, had fine elocutionary powers and possessed on the whole a pleasing delivery, which often passes, in pulpit and on rostrum, for something weightier; as sound passes for sense, and “perspiration for inspiration.” No one at Washington, unless it was Delegate Hooper, whose time was fully occupied with his Congressional duties, even if differing from Dr. Newman on the subject, cared to court unpopularity by antagonizing him. Consequently, with no foeman in the field, in his eloquent assaults upon the domestic relations of the ancient patriarchs and their modern emulators, from the pulpit of the Metropolitan Church, beneath the approving nod of President Grant and other dignitaries, the doughty pastor, in his own mind, came off more than conqueror.

But away out here in Utah—alas for the stubbornness and stiffneckedness of these Mormons!—it took something more than elocution and pulpit-pounding, shouting and swinging of arms, a studied posture and a carefully arranged stray lock of hair on the forehead,* to convince people of the rightfulness or wrongfulness of any practice, and while the Saints were diverted by the actions of the metropolitan pastor, while they read his sermons, and were pleased and not a little proud that their peculiar institution was being so prominently noticed, they were far from persuaded that polygamy, as they and their confreres aimed to practice it, was wrong, or that the Bible, the record of Moses, Abraham, Jacob and other patriarchs, some of whom, according to that book, were

* Dr. Newman habitually wore a lock of his hair low down on the brow.

actually commanded of God to marry more than one wife, did not sanction the doctrine.

Finally one of them, reputedly Edward L. Sloan, acting-editor of the Salt Lake *Telegraph*, in one of the closing issues of that journal,—which was just about to expire and be superseded by the Salt Lake *Herald*,—intimated to Dr. Newman that he was wasting his ammunition in preaching against polygamy at Washington, and that he would do better to come to Salt Lake where the subject was more apropos, and discuss the question in public with Orson Pratt, or some other prominent Mormon, in the largest hall obtainable. This playful banter on the part of the *Telegraph* editor was construed by Dr. Newman as a formal challenge—a challenge, too, from Brigham Young—for him to come to Utah and discuss polygamy with the Mormon President in the great Tabernacle before ten thousand people.

It is difficult to believe,—however desirous one is to do the reverend gentleman no injustice,—that he really supposed the Mormon leader had issued such a challenge. Certainly there was little enough ground for the supposition. The *Telegraph* was not Brigham Young's organ. Indeed it was not at this time owned by Mormons, but had passed into the possession of a Doctor Fuller, of Chicago, who, though retaining some Mormons in his employ, had taken pains to state through his paper at the time he assumed ownership, that "the *Telegraph* is not the organ of any person or party; it will not be the exponent of any religious doctrine or creed, but it will speak plainly, independently and honestly on the subjects it may discuss; and it will defend civil and religious liberty and Constitutional rights at all times." Neither had Brigham Young's name appeared directly or indirectly in connection with any challenge of the kind, nor was he even mentioned in the article attributed to Editor Sloan. Orson Pratt was the only person suggested by name to sustain the Mormon side of the question in case a discussion should ensue.

But Dr. Newman would not have it so. He insisted on debating



The Tabernacle, Salt Lake City.



with Brigham Young. Possibly he had been informed by Vice-President Colfax that oratory was not the Mormon leader's forte, and as he himself was gifted in that direction and a skilled duelist in debate, he anticipated an easy victory. He had heard more or less in the east of Orson Pratt,—he admitted as much during his discussion with that master of logic and the dead languages,—and though not distrusting his own ability to cope with “the very chiefest of the Apostles” he did not seem particularly anxious to cross swords with Mormonism's mathematical and philosophical champion. Besides—and this was doubtless his main reason for wishing to discuss with Brigham Young—it was notoriety that Dr. Newman was seeking, with all due regard for his other desire, if he had another, to save the souls of the “sinful Mormons;” and it stands to reason that in meeting and vanquishing the head and front of Mormondom, in his own stronghold, with the eyes of Europe and America, if not of Asia, Africa and the archipelagoes all gazing at him, he would reap more repute than in encountering and putting to rout one of twelve Apostles. He therefore “accepted the challenge,” a challenge that had not been given; picked up the gauntlet, a gauntlet that had not been thrown down, and deeming himself another David, when in reality he more nearly resembled Goliath of Gath, boldly announced his intention of going up to battle against the uncircumcised Mormon Philistine who had defied the armies of Methodistic Israel.

As for President Young, who had once been a Methodist preacher himself, and had many times stood up against Christian polemicists in defense of Mormonism,—to say nothing of cabinet conversations with such men as Greeley, Colfax and a score of others on the subject of polygamy,—he doubtless would have been willing, though opposed to debates on principle, to have met and discussed the question in public with Dr. Newman or any other gentleman, had it been proper for him to do so. But such a proceeding would have been manifestly improper, as much so as for Dr. Newman, in his own church at Washington, to have stepped down

from his pulpit to act the part of door-keeper or usher when such had already been provided; to pass the plate for contributions after one of his own sermons, or to act in any subordinate capacity, however honorable, when there was absolutely no need for such a service on his part. Tullidge states that Dr. Newman's expectation of a personal discussion with Brigham Young was as absurd as it was presumptuous in the Mormon eye, and that as well might he have journeyed to Rome in the expectation of discussing Catholicism with the Pope. The comparison is apt, but suppose we add another,—that of some attache of the British embassy at Washington, or even the ambassador himself, challenging in those days "the silent man of the White House" to a public discussion of the comparative merits and demerits of the monarchical and republican forms of government. Aside from the fact that President Grant's forte was not oratory,—though he doubtless could, on occasion, give a reason for the political faith that was within him,—it would neither have been dignified nor appropriate for the Chief Magistrate to have so far condescended; particularly if the evident design of his would-be opponent had been to gratify personal vanity, and not to subserve a principle.

Nevertheless up came Dr. Newman to discuss polygamy with Brigham Young, and that, too, without ever having communicated with the Mormon leader to ask him whether or not he had issued a challenge for him to come, or had authorized the article in the *Telegraph* which the Methodist pastor had seen fit to misconstrue. The leading newspapers of the country, though passing strictures upon Dr. Newman for his evident desire to achieve a vain notoriety, took up the matter of the proposed debate, and the eyes of the nation's millions turned with one accord toward Utah, in anticipation of the polemical treat in store.

It was early in August, 1870, that Dr. Newman, accompanied by his wife, and by Reverend Dr. Sunderland, arrived at Salt Lake City. Immediately there ensued the following correspondence between the Senate Chaplain and the Mormon President:

DOCTOR NEWMAN TO PRESIDENT YOUNG.

SALT LAKE CITY, Aug. 6th, 1870.

To President Brigham Young,

SIR:—In acceptance of the challenge given in your journal, the *Salt Lake Daily Telegraph* of the 3rd of May last, to discuss the question, "Does the Bible sanction Polygamy?" I have hereby to inform you that I am now ready to hold a public debate with you as the head of the Mormon Church upon the above question, under such regulations as may be agreed upon for said discussion; and I suggest for our mutual convenience, that either by yourself or by two gentlemen whom you shall designate, you may meet two gentlemen whom I will select for the purpose of making all necessary arrangements for the debate, with as little delay as possible. May I hope for a reply at your earliest convenience, and at least not later than three o'clock today.

Respectfully, etc.,

J. P. NEWMAN.

PRESIDENT YOUNG TO DOCTOR NEWMAN.

SALT LAKE CITY, U. T., Aug. 6th, 1870.

Rev. Dr. J. P. Newman,

SIR:—Yours of even date has just been received, in answer to which I have to inform you that no challenge was ever given by me to any person through the columns of the *Salt Lake Daily Telegraph*, and this is the first information I have received that any such challenge ever appeared.

You have been misinformed with regard to the *Salt Lake Daily Telegraph*; it was not my journal, but was owned and edited by Dr. Fuller of Chicago, who was not a member of our Church and I was not acquainted with its columns.

Respectfully,

BRIGHAM YOUNG.

DOCTOR NEWMAN TO PRESIDENT YOUNG.

SALT LAKE CITY, Aug. 6th, 1870.

To President Brigham Young,

SIR:—I confess my disappointment at the contents of your note in reply to mine of this date. In the far East it is impossible to distinguish the local relations between yourself and those papers which advocate the interests of your Church; and when the copy of the *Telegraph* containing the article of the 3rd of May last reached Washington, the only construction put upon it by my friends was that it was a challenge to me to come to your city and discuss the Bible doctrine of polygamy.

Had I chosen to put a different construction on that article, and to take no further notice of it, you could then have adopted the *Telegraph* as your organ and the said article as a challenge, which I either could not or dared not accept. That I am justified in this conclusion is clear from the following facts.

1. The article in the *Telegraph* of May 3rd, contains these expressions; alluding to my sermon as reported in the *N. Y. Herald*, it says: "The discourse was a lengthened

argument to prove that the Bible does not sustain polygamy. * * * The sermon should have been delivered in the New Tabernacle in this city, with ten thousand Mormons to listen to it and then Elder Orson Pratt, or some prominent Mormon should have had a hearing on the other side and the people been allowed to decide. * * * Dr. Newman, by his very sermon, recognizes the religious element of the question. * * * Let us have a fair contest of peaceful argument and let the best side win. * * * We will publish their notices in the *Telegraph*, report their discourses as far as possible, use every influence in our power, if any is needed, to secure them the biggest halls and crowded congregations, and we are satisfied that every opportunity will be given them to conduct a campaign. We base this last remark on a statement made last Sunday week in the Tabernacle, by President George A. Smith, that the public halls throughout the Territory have been and would be open for clergymen of other denominations coming to Utah to preach. * * * Come on and convert them by the peaceful influences of the Bible instead of using the means now proposed. Convince them by reason and Scriptural argument and no Cullom bill will be required."

2. I understand the article containing the above expressions was written by Elder Sloan, of the Mormon Church, and at that time associate editor of the *Telegraph*; and that he was and has since been in constant intercourse with yourself. The expressions of the said article as above cited were the foundation of the impression throughout the country that a challenge had thus been given through the columns of the *Telegraph*, and, as such, I myself had no alternative but so to regard and accept it. I may add that I am informed that an impression prevailed here in Utah that a challenge had been given and accepted. Under this impression I have acted from that day to this, having myself both spoken of and seen allusions to the anticipated discussion in several prominent papers of the country.

3. It was not till after my arrival in your city last evening, in pursuance of this impression, that I learned the fact that the same Elder Sloan, in the issue of the *Salt Lake Herald*, of August 3rd, attempts for the first time to disabuse the public of the idea so generally prevalent. Still acting in good faith and knowing that you had never denied or recalled the challenge of the 3rd of May, I informed you of my presence in your city and of the object of my visit here.

My note this morning with your reply will serve to put the matter before the public in its true light and dispel the impression of very many in all parts of the country, that such a challenge had been given and that such a discussion would be held.

Feeling that I have now fully discharged my share of the responsibility in the case, it only remains for me to subscribe myself as before,

Respectfully,

J. P. NEWMAN.

PRESIDENT YOUNG TO DOCTOR NEWMAN.

SALT LAKE CITY, Aug. 6th, 1870.

Rev. Dr. J. P. Newman,

SIR:—It will be a pleasure to us if you will address our congregation tomorrow

morning, the 7th inst., in the small Tabernacle, at 10 a. m., or should you prefer it, in the New Tabernacle at 2 p. m., same instant, or both morning and evening.

Respectfully,

BRIGHAM YOUNG.

P. S. I hope to hear from you immediately.

DOCTOR NEWMAN TO PRESIDENT YOUNG.

SALT LAKE CITY, Aug. 6th, 1870, 8 o'clock p. m.

To President Brigham Young,

SIR:—In reply to your note just received to preach in the Tabernacle tomorrow, I have to say that after disclaiming and declining, as you have done today, the discussion which I came here to hold, other arrangements to speak in the city were accepted by me, which will preclude my compliance with your invitation.

Respectfully,

J. P. NEWMAN.

PRESIDENT YOUNG TO DOCTOR NEWMAN.

SALT LAKE CITY, U. T., Aug. 6th, 1870.

Rev. Dr. Newman,

SIR:—In accordance with our usual custom of tendering clergymen of every denomination passing through our city the opportunity of preaching in our tabernacles of worship, I sent you, this afternoon, an invitation tendering you the use of the small Tabernacle in the morning, or the New Tabernacle in the afternoon, or both, at your pleasure, which you have seen proper to decline.

You charge me with "disclaiming and declining the discussion" which you came here to hold. I ask you, sir, what right you have to charge me with declining a challenge which I never gave you, or, to assume as a challenge from me, the writing of any unauthorized newspaper editor? Admitting that you could distort the article in question to be a challenge from me, (which I do not believe you conscientiously could) was it not the duty of a gentleman to ascertain whether I was responsible for the so-called challenge before your assumption of such a thing? and certainly much more so before making your false charges.

Your assertion that if you had not chosen to construe the article in question as a challenge from me, I "could then have adopted the *Telegraph* as your [my] organ and the said article as a challenge," is an insinuation, in my judgment, very discreditable to yourself and ungentlemanly in the extreme, and forces the conclusion that the author of it would not scruple to make use of such a subterfuge himself.

You say that Mr. Sloan is the author of the article; if so, he is perfectly capable of defending it, and I have no doubt you will find him equally willing to do so: or Professor Orson Pratt, whose name, it appears, is the only one suggested in the article. I am confident he would be willing to meet you, as would hundreds of our Elders, whose fitness and respectability I would consider beyond question.

In conclusion, I will ask, what must be the opinion of every candid, reflecting mind,

who views the facts as they appear? Will they not conclude that this distortion of the truth in accusing me of disclaiming and declining a challenge, which I never even contemplated, is unfair and ungentlemanly in the extreme and must have been invented with some sinister motive? Will they not consider it a paltry and insignificant attempt on your part to gain notoriety, regardless of the truth? This you may succeed in obtaining; but I am free to confess, as my opinion, that you will find such notoriety more unenviable than profitable, and as disgraceful, too, as it is unworthy of your profession.

If you think you are capable of proving the doctrine of "Plurality of Wives" unscriptural, tarry here as a missionary; we will furnish you the suitable place, the congregation, and plenty of our Elders, any of whom will discuss with you on that or any other scriptural doctrine.

Respectfully,

BRIGHAM YOUNG.

Dr. Newman had indeed accepted an invitation to speak at Faust's Hall, at 3 p. m. on Sunday, August 7th. He accordingly held forth at the time and place appointed, the meeting being under the auspices of the Methodists, who, with Reverend G. M. Pierce, had recently begun operations in Utah. The congregation comprised about four hundred persons, many of them transients; ladies and gentlemen, Federal officials, resident Gentiles and Jews, and apostate Mormons. Dr. Newman's sermon, as might have been expected after his preliminary tilt with President Young, was a fierce onslaught upon plural marriage, mingled with much coarse abuse of those who practiced it. According to the *Deseret News*, the men he called "bulls," the women "serfs and slaves," and their children "brats." Even the ancient patriarchs came in for their share of his splenetic vituperation. "Lamech, the murderer," "Abraham, the coward' and equivocator," "Jacob, the swindler, liar and thief," "Gideon, the bastard and idolator," "David the adulterer and murderer," and "Solomon, the man who built altars to worship the God Moloch." These were a few of the pet names bestowed by the reverend gentleman upon some of the most illustrious lights of history. Such were his arguments on that occasion against polygamy. Leaving this subject for the nonce, he delivered a very beautiful eulogy of the American Flag and the framers of the Constitution. He then asserted that Congress had the right to

prescribe limits to the religious faith of American citizens, whenever that faith was contrary to the laws of God and common decency,—an assertion that those who virtually advocate the establishment of a State religion for the Union would now roll under their tongues as a sweet morsel,—and closed with the declaration that polygamy must be put down by the strong arm of the Government. He hoped, however, that the laws would be mercifully executed, and he believed that wise legislation would so control the methods of suppressing the practice that the women and children would not suffer; for the men he could not say so much. Such was the substance of Dr. Newman's first public address at Salt Lake City.

Monday morning, August 8th, he thus replied to President Young's third letter:

SALT LAKE CITY, Aug. 8th, 1870.

To President Brigham Young,

SIR:—Your last note, delivered to me on Sunday morning, and to which, of course, I would not on that day reply, does not surprise me.

It will be, however, impossible for you to conceal from the public the truth, that with the full knowledge of my being present in your city for the purpose of debating with you or your representative the question of Polygamy, you declined to enter into any arrangements for such a discussion; and after this fact was ascertained, I felt at liberty to comply with a subsequent request from other parties, which had been fully arranged before the reception of your note of invitation to preach in your Tabernacle.

I must frankly say that I regard your professed courtesy, extended under the circumstances as it was, a mere device to cover, if possible, your unwillingness to have a fair discussion of the matter in question in the hearing of your people.

Your comments upon "disclaiming and declining the discussion" are simply a reiteration of the *disclaimer*; while in regard to your notice of my construction of the article in the *Telegraph* of May last, I have only to leave the representations you have seen fit to make to the judgment of a candid public, sure to discover who it is that has resorted to "subterfuge" in this affair. Your intimation that Elder Sloan, Prof. Pratt or hundreds of other Mormon Elders would be willing to discuss the question of polygamy with me from a Bible standpoint, and your impertinent suggestion that I tarry here as a missionary for that purpose, I am compelled to regard as cheap and safe attempts to avoid the appearance of shrinking from such discussion by seeming to invite it after it had, by your own action, been rendered impossible. As to the Elders you speak of, including yourself, being ready to meet me in public debate, I have to say that I came here with that understanding and expectation, but it was rudely dispelled, on being definitely tested. Were it possible to reduce these vague suggestions of yours to something like a distinct proposition for a

debate, there is still nothing in your action, so far, to assure me of your sincerity, but, on the contrary, everything to cause me to distrust it.

I have one more point of remark. You have insinuated that my motive is a thirst for "notoriety." I can assure you that if I had been animated by such a motive you give me small credit for good sense by supposing that I would employ such means. Neither you nor the system of which you are the head, could afford me any "notoriety" to be desired.

But, to show how far I have been governed by merely personal aspirations, let the simple history of the case be recalled.

You send your delegate to Congress who, in the House of Representatives and in sight and hearing of the whole nation, throws down the gauntlet upon the subject of polygamy as treated in the Bible. Being chaplain of the American Senate, and having been consulted by several public men, I deemed it my duty to preach upon the subject. The discourse was published in the *New York Herald*, and on thus reaching your city one of your elders published an article which is construed as a challenge to me to debate the question with you or some one whom you should appoint, here in your Tabernacle. Acting upon this presumption, I visit your city, taking the earliest opportunity to inform you, as the head of the Mormon Church, of my purpose and suggesting the steps usual in such cases. You then reply, ignoring the whole subject, but without a hint of your "pleasure" about my preaching in the Tabernacle.

Subsequently other arrangements were made which precluded my accepting any invitation to speak in your places of worship. The day passed away, and after sunset I received your note of invitation, my reply to which will answer for itself. And this you intimate is an attempt on my part to obtain "unenviable notoriety."

Sir, I have done with you—make what representations of the matter you may think proper, you will not succeed in misleading the discriminating people either of this Territory or of the country generally by any amount of verbiage you may choose to employ.

Respectfully, etc.,

J. P. NEWMAN.

The next day Dr. Newman received from a number of non-Mormon gentlemen the following communication, to which he returned the appended answer:

SALT LAKE CITY, Aug. 9th, 1870.

Rev. J. P. Newman,

DEAR SIR:—Pardon the liberty which we the undersigned citizens of this place hereby take in addressing you in reference to the object of your present visit. Having seen in the *News* of last evening and the *Herald* of this morning, an attempt to make the impression upon the public that you are, after all, unwilling to debate the question "Does the Bible sanction Polygamy?" with Brigham Young, as the chief of the Church of Latter-day Saints, and to debate it *now* and *here*, we desire to know from you directly whether such is the fact and we would respectfully request a reply, that we may be able

to set the matter in its true light by publishing the whole correspondence, as we will seek to do, in an *extra* of the *Tribune* to be issued at the earliest possible moment.

Very respectfully,

JOHN P. TAGGART,
J. H. WICKIZER,
GEO. R. MAXWELL,
G. B. OVERTON,
J. F. WOODMAN.

SALT LAKE CITY, Aug. 9th, 1870.

To Messrs. J. P. Taggart and others,

GENTLEMEN :—In reply to yours of this date, requesting to know if I am willing to hold a debate *here and now*, on the question "Does the Bible Sanction Polygamy?" with Mr. Brigham Young, as the chief of the Mormon Church, I have to state that this was the express purpose for which I came here, as appears from my first note to him. The correspondence between him and myself has, however, developed, on his part, such a line of conduct that I had fully determined to have nothing more to do with him. But as I came here in full faith to debate the question with him, regarding myself as the challenged party, and as he endeavors to escape by a denial that he has ever challenged me, I will put the matter now beyond dispute by sending him a challenge.

It shall be done immediately, and a copy of the same shall be furnished for the *extra* of which you speak.

Very respectfully, etc.,

J. P. NEWMAN.

Correspondence was then reopened between Dr. Newman and President Young as follows:

SALT LAKE CITY, Aug. 9th, 1870.

To Mr. Brigham Young,

SIR: In view of the enclosed communication, received from several citizens of this place, asking whether I am ready *now and here* to debate the question "Does the Bible Sanction Polygamy?" with you, as the chief of the Church of Latter-day Saints, and in view of the defiant tone of your Church journals of last evening and this morning; and in view of the fact that I have been here now four days waiting to have you inform me of your willingness to meet me in public discussion on the above question, but having received no such intimation up to this time of writing, therefore I do here and now challenge you to meet me in personal and public debate, on the aforesaid question. I respectfully suggest that you appoint two gentlemen to meet Rev. Dr. Sunderland and Dr. J. P. Taggart, who represent me, to make all necessary arrangements for the discussion.

Be kind enough to favor me with an immediate reply.

Respectfully,

J. P. NEWMAN.

Residence of Rev. Mr. Pierce.

SALT LAKE CITY, August 9th, 1870.

Rev. J. P. Newman,

SIR:—Your communication of today's date, with accompanying enclosure, was handed to me a few minutes since by Mr. Black.

In reply, I will say I accept the challenge to debate the question, "Does the Bible sanction Polygamy?" Professor Orson Pratt or Hon. John Taylor acting for me as my representative, and in my stead in the discussion. I will furnish the place of holding the meetings, and appoint two men to meet Messrs. Sunderland and Taggart, to whom you refer as your representatives, to make the necessary arrangements.

I wish the discussion to be conducted in a mild, peaceable, quiet spirit, that the people may receive light and intelligence and all be benefitted; and then let the congregation decide for themselves.

Respectfully,

BRIGHAM YOUNG.

CITY, Aug. 9th, 1870.

Rev. J. P. Newman.

SIR:—I have appointed Messrs. A. Carrington and Joseph W. Young to meet with Messrs. Sunderland and Taggart, to arrange preliminaries for the discussion.

Respectfully,

BRIGHAM YOUNG.

SALT LAKE CITY, Aug. 9th, 1870.

To Mr. Brigham Young,

SIR:—I challenged *you* to a discussion and not Orson Pratt or John Taylor. *You* have declined to debate personally with me. Let the public distinctly understand this fact, whatever may have been your reasons for so declining. Here I think I might reasonably rest the case. However, if Orson Pratt is prepared to take the affirmative of the question, "Does the Bible sanction Polygamy?" I am prepared to take the negative, and Messrs. Sunderland and Taggart will meet Messrs. Carrington and Young tonight at eight o'clock at the office of Mr. Taggart, to make the necessary arrangements.

Respectfully, etc.,

J. P. NEWMAN.

SALT LAKE CITY, U. T. Aug. 10th, 1870.

Rev. Dr. J. P. Newman,

SIR:—I am informed by Messrs. Carrington and Young that at their meeting last evening with Drs. Sunderland and Taggart they were unable to come to a decision with regard to the wording of the subject of debate.

Bearing in mind the following facts: Firstly—that you are the challenging party. Secondly—that in a sermon delivered by you in the city of Washington, before President Grant and his Cabinet, members of Congress and many other prominent gentlemen, you assumed to prove that God's law condemns the union in marriage of more than two persons, it certainly seems strange that your representatives should persistently refuse to have any other question discussed than the one "Does the Bible sanction Polygamy?" It appears to the representatives of Mr. Pratt that if Dr. Newman could undertake to prove

in Washington that "God's law condemns the union in marriage of more than two persons," he ought not to refuse to make the same affirmation in Salt Lake City. Mr. Pratt, I discover, entertains the same opinion, but rather than permit the discussion to fall, he will not press for your original proposition, but will accept the question as you now state it, "Does the Bible sanction Polygamy?"

I sincerely trust that none of the gentlemen forming the committee will encumber the discussion with unnecessary regulations, which will be irksome to both parties and unproductive of good, and that no obstacles will be thrown in the way of having a free and fair discussion.

Respectfully,

BRIGHAM YOUNG.

The conditions of the debate, as finally arranged and mutually agreed upon by the representatives of the two parties, were as follows:

CONDITIONS OF THE DEBATE.

1. The question to be discussed is, "Does the Bible sanction polygamy?" Professor Pratt to take the affirmative and Dr. Newman the negative.

2. The Bible, in the original and English tongues, shall be the only standard of authority in this debate, the disputants, however, being free to quote from any other works or sources of information.

3. The place for holding the discussion shall be the New Tabernacle.

4. There shall be three sessions on three consecutive days, each session to continue two hours—that is, giving each disputant one full hour at every session, the affirmative to have the first hour and the negative to have the last hour. The first session to be held on Friday, August 12th, 1870, at two o'clock P. M., and the second and third sessions at the same hour successively, on Saturday and Sunday, the 13th and 14th of the present month.

5. There shall be three umpires, one to be chosen by Prof. Pratt, one by Dr. Newman and a third by these two, and the three shall unitedly preside at the discussion, preserve its dignity and decorum and enforce the usual rules which govern parliamentary debate.

6. No manifestation of dissent or approval shall be permitted during the progress of the discussion, nor shall either disputant be interrupted by the other while speaking, for any cause whatever. Corrections of statements or misunderstandings shall be made in the body of the subsequent reply.

7. Each disputant to have his own reporters and one other assistant in the labors of the debate; but such assistant shall take no part in the speaking.

8. The Tabernacle and necessary attendance to be furnished free of charge, and children under eight years of age not to be admitted.

9. At the close of the debate no formal decision to be taken.

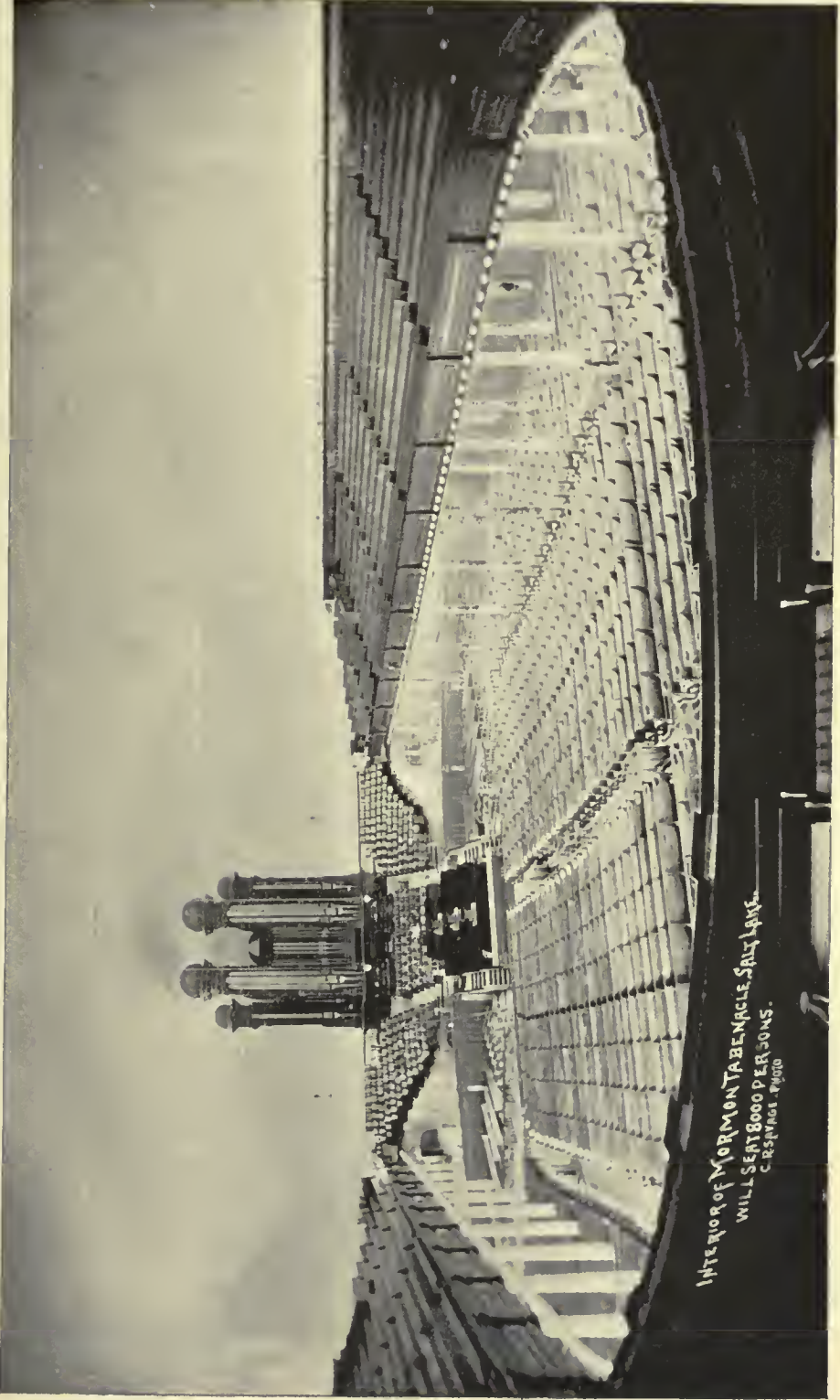
10. Each session to be opened and closed by prayer under the direction of the speakers.

The umpire chosen by Apostle Pratt was Judge Zerubbabel Snow; the one chosen by Dr. Newman was Judge C. M. Hawley; the third, selected by these two, was Colonel M. T. Patrick, U. S. Marshal.

At 2 p. m., Friday, August 12th, the great discussion began, and continued on the afternoons of the two days following. At the first session about three thousand people were present, the major part of them ladies; but on the ensuing day, the news having spread, there was a much larger attendance. On Sunday, which witnessed the close of the debate, the immense building was packed; probably eleven thousand people, many of whom were unable to obtain seats, listening with the deepest interest to the arguments of the speakers. Many of the auditors had come in from the surrounding settlements, and some were from places more remote. The question: "Does the Bible Sanction Polygamy?" was thoroughly ventilated, and the arguments pro and con published in full from day to day by the local papers. The New York *Herald* also published a verbatim report of each day's proceedings, and every other leading journal throughout the land gave a daily synopsis of the arguments. It was hardly to be expected, in view of the dense prejudice existing against the Mormons and the polygamic feature of their faith, that the majority of those who read the reports of the discussion would concede that the Mormon Apostle bore off the palm. Nevertheless, it was evident from the tone of most of the journals that such was indeed the case.

They did not, of course, concede that polygamy was right, but they virtually admitted that the Mormon Apostle had shown, and the Methodist pastor had failed to disprove, that the Bible sanctioned the practice. The correctness of this position has not been disputed by the profoundest scriptorians since the days of Luther and Milton.* We will quote from some of the journals a little later. What we desire to do now is to place before the reader in succinct form the principal arguments of the two champions.

* One of the poet Milton's most celebrated theological treatises was entitled "Christian Doctrine," justifying plurality of wives from a Bible standpoint.



INTERIOR OF MORMON TABERNACLE, SALT LAKE.
WILL SEAT 8000 PERSONS.
CR. ST. NICH. PHOTO

Interior of the Tabernacle.

On Friday afternoon Judge Hawley having called the assembly to order, and Apostle John Taylor having offered prayer, the former introduced to the congregation Professor Orson Pratt, as the opening speaker. The "introduction" caused a slight titter in the body of the house, owing to the fact that the man introduced—Professor Pratt—was well known to nearly everyone present, while his introducer—Judge Hawley—a recent arrival in Utah, was almost entirely unknown. The ripple of merriment speedily subsided, however, and Professor Pratt plunged at once into the subject under discussion, taking the affirmative of the question: "Does the Bible sanction Polygamy?"

His first reference to the Scriptures in support of the proposition was Deuteronomy, Chapter XXI, 15th to 17th verses, beginning: "If a man have two wives," etc., which the speaker claimed was a sanction of a plurality of wives, as the law cited was given to regulate inheritances in polygamic families, of which, he maintained, there were many in ancient Israel, and the scriptures nowhere condemned them; polygamy being as lawful as monogamy and both systems being practiced in those times. In this connection the speaker referred to the Patriarch Jacob, who had four wives and twelve sons by those wives, and showed that when Reuben, the eldest son, lost his birth-right through transgression, it was given to Joseph, the son of Jacob's second wife, or rather to Joseph's two sons, Ephraim and Manasseh, as recorded in the fifth chapter of 1st Chronicles. The House of Israel was not only founded in polygamy, but from Jacob's four wives and twelve sons sprang the twelve tribes of Israel, who continued the polygamic practice of their ancestor Jacob, surnamed Israel. The speaker also referred to Exodus, XXI, 10, containing the sentence: "If he take him another wife, her food, her raiment, and her duty of marriage shall he not diminish," and claimed that it had reference to two lawful wives. Another law on the subject of polygamy was to be found in Deuteronomy XXV, beginning with the fifth verse, which reads: "If brethren dwell together and one of them die, and have no child, the wife of the dead shall

not marry without unto a stranger; her husband's brother shall go in unto her, and take her to him to wife, and perform the duty of a husband's brother unto her." The speaker claimed this to be a general law applicable to married as well as unmarried brothers, or, as the margin gave it, "next kinsman." Such a law, it was argued, must have made a vast number of polygamists in Israel, from the day it was given down to the coming of Christ, as there was a penalty attached for disobedience to the law, and the Christian religion must have admitted such polygamists into the Church, with their plural wives, since it was the same God who gave the law that afterwards instituted the Church of Christ. The case of Lamech, a polygamist and a murderer, [was] offset with that of Cain, a monogamist and a murderer. Professor [Pratt] would not maintain that Cain's crime was due to monogamy; nor would he concede that Lamech's crime was due to polygamy. The fact that Adam had but one wife did not preclude his descendants from having more than one; any more than the fact that Adam had but one garden to keep prohibited his descendants from keeping more. As Delegate Hooper had remarked in Congress, Adam had taken all the women in the world, and had there been more he might have taken them; there was no law of limitation to prevent him. The speaker next cited Numbers XXXI, 17, 18, and Deuteronomy XXI, 10-14, relative to the treatment by Israel of women taken captive in war. The men of Israel were at liberty to marry them, regardless of polygamy or monogamy in the premises. In Exodus XXII, 16, 17, and in Deuteronomy XXII, 28, 29, God commanded male seducers and rapists to marry their victims, regardless of whether those males were married or unmarried at the time. In 2nd Chronicles XXIV, 2, 3, 15, 16, it was stated that Jehoida the priest took for Joash "two wives," and that Joash, who was thus made a polygamist, "did that which was right in the sight of the Lord all the days of Jehoida the priest," and that when Jehoida died, at the age of one hundred and thirty years, "they buried him in the city of David among the kings, because he had done good in Israel, both toward God and toward his

house." The speaker next referred to Hosea I, 2, 3, and III, 1-5, to show that the Almighty sometimes required strange things of a prophet, which might tempt the world to reject him; commandments which were not binding upon subsequent prophets or peoples; and to other passages of scripture which proved that God would give commands or revoke them as it pleased Him. In conclusion Professor Pratt stated that the Latter-day Saints did not practice polygamy because God commanded it in ancient times, or because good men practiced it according to that commandment, but because He had commanded it to be practiced in this day. Such was the substance of the opening speech of the discussion.

Dr. Newman was then introduced by Judge Hawley. The reverend gentleman was evidently nonplussed by the argument which had just been made, and seemed anxious to get back to his boarding house and consult his books before attempting a complete reply. This was apparent from the rambling and partly irrelevant nature of his address, which, though eloquent, and containing some beautiful passages of poetic thought, was not to the point, except in places, and in this respect was in striking contrast to the direct, incisive, yet simple and unpretentious statement of his opponent. It was perfectly plain that Dr. Newman's object in his first address was to "kill time" and let his hour expire without attempting a rebuttal of Professor Pratt's argument. He first analyzed, after the manner of the modern orthodox expounder of scripture, the question: "Does the Bible sanction Polygamy?"—dwelling long upon each of the three principal words—"Bible," "Sanction," "Polygamy"—and fully explaining their meaning. The substance of this part of his dissertation, which consumed fully half an hour, when it might have been done in ten minutes, was this: that the Bible meant the good book as it is today, without reference to the original manuscripts or to subsequent records of alleged revelations; that sanction meant command, or positively expressed approbation, not merely toleration, or a statement of facts; and that polygamy meant many marriages, and might imply a plurality of husbands as well

as of wives. He should therefore scout the word polygamy and use instead for the purposes of this discussion the word polygyny, which signified more wives than one. The speaker then showed that the design of marriage, as originally established in Eden, was three-fold—companionship, procreation and prevention. Companionship was first, the union of two loving hearts, such as Adam and Eve; procreation was next, and when God reserved in the Ark at the time of the Deluge, men and women to re-people the earth, he took four of each sex, Noah and his three sons, each with one wife, for that purpose. The third design of marriage was to prevent the indiscriminate intercourse of the sexes, and man was thus lifted above the level of the brutes. The speaker then compared the two systems, monogamy and polygamy; eulogized the former, ridiculed the latter, and finally, after fifty minutes of his hour had elapsed, and only ten minutes remained, began to rebut the arguments put forth by his opponent. Said Dr. Newman: "My only regret is that my distinguished friend, for whose scholarship I have regard, did not deliberately take up one passage, and exhaust that passage, instead of giving us here a passage and there a passage, simply skimming them over without going to the depths, and showing their philological relation and their entire practical bearing upon us." He then added vaingloriously: "When my friend shall give us such an exegesis and analysis, whether he quotes Hebrew, Greek or Latin I will promise him that I will follow him through all the mazes of his exposition, and I will go down to the very bottom of his argument." Dr. Newman then referred to Lamech the polygamist and murderer, and claimed, because he said to his wives: "I have slain a man," that said man must have been coming to "claim his rights"—that is, one of Lamech's wives—when Lamech slew him. But Cain's act of murder, he maintained, did not grow out of monogamy. He declared that the words of Malachi: "Why have ye dealt treacherously with the wife of your youth?" were a rebuke to the Jews for their practice of polygamy; that the first marriage in the Garden of Eden was the great model for all subse-

quent marriages; that Christ re-enacted that law of monogamy when he answered the Pharisees touching divorce: "Have ye not read that in the beginning God created them male and female?" and that St. Paul corroborated those words of Jesus, in saying: "God created them male and female, one flesh." This closed the first day's proceedings.

Saturday afternoon the discussion was resumed. From Professor Pratt's argument on that occasion we will present the following excerpts:

LADIES AND GENTLEMEN:—We again come before you this afternoon, being the second session of our discussion, to examine the question: "Does the Bible sanction Polygamy?" I will here remark, that yesterday afternoon I occupied one hour upon the subject, and brought forth numerous evidences from the Bible to show that polygamy was a divine institution sanctioned by the Bible, and sanctioned by the Almighty, who gave the laws contained in the Bible. * * * It was stated in the course of the remarks of the reverend gentleman in relation to polygamy, or polygyny, whichever term we feel disposed to choose, that marriage with more than one woman is considered adultery. I will read one or two of Mr. Newman's sentences. "Take his exposition"—that is the Savior's—"Take his exposition of the ten commandments as they were given amid the thunders of Mount Sinai, and you find he has written a commentary on the Decalogue, bringing out its hidden meaning, showing to us that the man is an adulterer who not only marries more women than one, but who looks on a woman with salacious lust. Such is the commentary on the law by the Lord Jesus Christ."

With part of this I agree most perfectly. If a man, according to the great commentary of our Savior, looks upon a woman with a lustful heart and lustful desire, he commits adultery in his heart, and is condemned as an adulterer. With the other part I do most distinctly disagree. It is merely an assertion of the reverend gentleman. No proof was adduced from the New Testament scriptures; no proof was advanced as the words of the great commentator, the Lord Jesus Christ, to establish the position that a man who marries more than one woman is an adulterer. If there is such a passage contained within the lids of the New Testament, it has not come under my observation. It remains to be proved, therefore.

We will now pass on to another item, that is, the meaning of the word "sanction:" "Does the Bible sanction Polygamy?" I am willing to admit the full force and meaning of the word sanction. I am willing to take it in all of its expositions as set forth in Webster's unabridged edition. I do not feel like shirking from this, nor from the definition given. Let it stand in all its force. "The only adequate idea of sanction," says Mr. Newman, "is the divine and positive approbation, plainly expressed;" or stated so definitely and by such forms of expression as to make a full and clear equivalent. It is in this way that we take the term sanction in the question before us. Admit that it must be expressed in definite terms, these terms were laid before the congregation yesterday afternoon. From this Bible,

King James' translation, passage after passage was brought forth to prove the divine sanction of polygamy; direct commands in several instances, wherein the Israelites were required to be polygamists; and in one instance, especially, where they were required under the heaviest curse of the Lord, "Cursed be he that continueth not in all things written in this book of the law; and let all the people say Amen," was the expression. I say, under this dreadful curse and the denunciations of the Almighty, the people were commanded to be polygamists.

I waited in vain yesterday afternoon for any rebutting evidence and testimony against this divine sanction. I was ready with my pencil and paper to record anything like such evidence, any passage from the Bible to prove that it was not sanctioned. I heard a remarkable sermon, a wonderful flourish of oratory. It certainly was pleasing to my ears. It fell upon me like the dews of heaven, as it were, so far as oratorical power was concerned. But where was the rebutting testimony? What was the evidence brought forth? Forty-nine minutes of the time were occupied before it was even referred to; forty-nine minutes passed away in a flourish of oratory, without having the proofs in rebuttal and the evidence examined which I had adduced. Then eleven minutes were left. I did expect to hear something in those eleven minutes that would in some small degree rebut the numerous evidences brought forth to establish and sanction polygamy. But I waited in vain. To be sure, one passage, and only one that had been cited, in Deuteronomy, was merely referred to; and then, without examining the passage and trying to show that it did not command polygamy, another item that was referred to by myself with regard to Lamech and Cain was brought up. Instead of an examination of that passage, until the close of the eleven minutes, the subject of Abel's sacrifice and Cain's sacrifice, and Cain's going to the land of Nod and marrying a wife, and so on, occupied the time. All these things were examined, and those testimonies that were brought forth by me were untouched. * * * * *

The murder that Cain committed in slaying his brother Abel does not prove anything against the monogamic form of marriage, nor anything in favor of it. It stands as an isolated fact, showing that a wicked man may be a monogamist. How in regard to Lamech? Lamech, so far as recorded in the Bible, was the first polygamist; the first on record. There may have been thousands and tens of thousands who were not recorded. There were thousands and tens of thousands of monogamists, yet, I believe, we have only three cases recorded from the creation to the flood, a period of some sixteen hundred years or upwards. The silence of scripture, therefore, in regard to the number of polygamists in that day, is no evidence whatever.

But it has been asserted before this congregation that this first case recorded of a polygamist brought in connection with it a murder; and it has been indicated or inferred that the murder so committed was in defence of polygamy. This I deny; and I called upon the gentleman to bring forth one proof from that Bible, from the beginning to the end of it, to prove that murder had anything to do in relation to the polygamic form of marriage of Lamech. It is true he revealed his crime to his wives, but the cause of the crime is not stated in the book. What, then, had it to do with the divinity of the great institution established called polygamy? Nothing at all. It does not condemn polygamy nor justify it, any more than the murder by Cain condemns or justifies the other form of marriage.

Having disposed of these two cases, let me come to the first monogamist, Adam. Let us examine his character, and the character of his wife. Lamech "slew a young man to his wounding, a young man to his hurt." That was killing one, was it not? How many did Adam kill? All mankind; murdered the whole human race. How? by falling in the garden of Eden. Would mankind have died if it had not been for the sin of this monogamist? No. Paul says "that as in Adam all die, so in Christ shall all be made alive." It was by the transgression of the first monogamist and his monogamic wife, that all mankind have to undergo the penalty of death. It was the cause, and I presume it will be acknowledged on the part even of monogamists that it was a great crime. What can be compared with it? Was Cain's crime, or Lamech's crime to be compared with the crime of bringing death and destruction, not only upon the people of the early ages, but upon the whole human race? But what has all that to do with regard to the divinity of marriage? Nothing at all. It does not prove one thing or the other. But when arguments of this kind are entered into by the opponents of polygamy, it is well enough to examine them and see if they will stand the test of scripture, and sound reason, of sound argument and sound judgment. Moreover, Adam was not only guilty of bringing death and destruction upon the whole human race, but he was the means of introducing fallen humanity into this world of ours. Why did Cain slay Abel? Because he was a descendant of that fallen being. He had come forth from the loins of the man who had brought death into the world. When we look abroad and see all the various crimes, as well as murder, that exist on the face of the globe, when we see mankind committing them; see all manner of degradation and lust; see the human family destroying one another, the question might arise, What has produced all these evils among men? They exist because a monogamic couple transgressed the law of heaven.

The learned gentleman referred us to a saying of that great man Martin Luther, concerning the relationship that exists between husband and wife. It was a beautiful argument. I have no fault whatever to find with it. And it is just as applicable to polygamy as to monogamy. The answer of Martin Luther to the question put to him—Why God took the female from the side of man, is just as appropriate, just as consistent with the plural form of marriage as it is with the other form. He did not take the woman from the head. Why? The argument was that the man should be the head, or as Paul says—"Man is the head of the woman," and that is his position. I believe my learned opponent agrees with me perfectly in this, so there is no dispute upon this ground. Why did not he take the woman from the foot. Because man is not to tyrannize over his wife, nor tread her under foot. Why did he take her from his side? Because the rib lies nearest the heart, showing the position of woman. Not only one woman but two women, five women, ten women, twenty women, forty women, fifty women, may all come under the protecting head. Jesus says: "No man can serve two masters," because he may love the one and hate the other, cleave unto the one and turn away from the other; but it is not so with women under the protecting head. * * *

I think monogamists as well as polygamists, when they reflect, will say that a woman having more than one husband would destroy her own fruitfulness. Even if she did have offspring, there would be another great difficulty in the way, the father would be unknown. Would it not be so? All knowledge of the father would be lost among the

children. Is this the case with a plurality of wives? No. If a man have fifty wives the knowledge of the father is as distinct as the knowledge of the mother. It is not destroyed, therefore. The great principle of parentage on the part of the husband, on the part of the father is preserved. Therefore it is more consistent, more reasonable, first for procreation, and secondly for obtaining a knowledge of parentage, that a man should have a plurality of wives than that a woman should have a plurality of husbands.

Again: a man with a plurality of wives is capable of raising up a very numerous household. You know what the scriptures have said about children: "Children are the heritage of the Lord, and the fruit of the womb is his reward." This being the case, a faithful, righteous, holy man, who takes, according to the great, divine institution of polygamy, a plurality of wives, is capable of multiplying his offspring ten or twenty fold more than he could by one wife. Can one wife do this by polyandry? No. Here then is a great distinction between the male and the female. * * * A man has the ability, a man has the power to beget large families and large households. Hence we read of many of the great and notable men who judged Israel; one man had thirty sons—his name was Jair: you will find it recorded in the Judges of Israel; and another had thirty sons and thirty daughters; while another Judge of Israel had forty sons. And when we come to the Gideon we have named, he had seventy-two. Now, we have nothing to do with the righteousness of these men, or their unrighteousness, in this connection. That has nothing to do with the marriage institution. God has established it by divine command. God has given it his own sanction, whether it be the polygamic or the monogamic form. If Gideon afterwards fell into idolatry, as the reverend gentleman may argue, that has nothing to do with the matter. He had the power to beget seventy-two sons, showing he had a superior power to that of the female.

Right here, I may say, God is a consistent being; a being who is perfectly consistent, and who delights in the salvation of the human family. A wicked man may take unto himself a wife, and raise unto himself a posterity. He may set before that wife and her posterity a very wicked example. He may lead those children by his drunkenness, by his blasphemy, by his immoralities, down to destruction. A righteous man may take fifty wives, or ten, as you choose; and he will bring up his children in the nurture and admonition of the Lord; he will instruct them in the great principles of righteousness and truth, and lead them along and bring them up by his example and by his teachings to inherit eternal life at the right hand of God, with those polygamists of ancient times, Abraham and Jacob of old, who are up yonder in the Kingdom of God. Which of the two is the Lord most pleased with? The man who has five, or ten, or twenty wives, bringing up his children, teaching them, instructing them, training them so that they may obtain eternal life with the righteous in the Kingdom of God; or the monogamist that brings up his children in all manner of wickedness, and finally leads them down to hell?

* * * * *

I shall expect this afternoon to hear some arguments to refute those passages brought forward to sustain polygamy as well as monogamy; and if the gentleman can find no proof to limit the passages I have quoted to monogamic households, if there is no such evidence contained in the passages, and there is nothing in the original Hebrew as it now exists to invalidate them, then polygamy as a divine institution stands as firm as the

throne of the Almighty. And if he can find that this form of marriage is repealed in the New Testament; if he can find that God has in any age of the world done away with the principle and form of plural marriage, perhaps the argument will rest with the other side. I shall wait with great patience to have some arguments brought forth on this subject. We are happy, here in this Territory, to have the learned come among us to teach us.

* * * * *

Mr. Newman has said he would like nine hours to bring forth his arguments and his reasonings for the benefit of the poor people of Utah. I wish he would not only take nine hours, but nine weeks and nine months, and be indeed a philanthropist and missionary in our midst; and try and reclaim this poor people from being the "awful beastly" people they are represented abroad. We are very fond of the scriptures. We do not feel free to comply with a great many customs and characteristics of a great many of those who call themselves Christians. Much may be said upon this subject; much, too, that ought to crimson the faces of those who call themselves civilized, when they reflect upon the enormities, the great social evils, that exist in their midst. Look at the great city of New York, the great metropolis of commerce. That is a city where we might expect some of the most powerful and learned theologians to hold forth, teaching and inculcating principles and lessons of Christianity. What exists in the midst of that city? Females by the tens of thousands, females who are debauched by day and by night; females who are in open day parading the streets of that great city! Why, they are monogamists there? It is a portion of the civilization of New York to be very pious over polygamy; yet harlots and mistresses by the thousands and tens of thousands walk the streets by open day, as well as by night. There is sin enough committed there in one twenty-four hours to sink the city down like Sodom and Gomorrah.

We read that there was once a case of prostitution among the children of Benjamin in ancient days. Some men came and took another man's wife, or concubine, whichever you please to call her; some men took her and abused her all night; and for that one sin they were called to account. They were called upon to deliver up the offenders but they would not do it, and they were viewed as confederates. And what was the result of that one little crime—not a little crime—a great one; that one crime instead of thousands? The Lord God said to the rest of the tribes of Israel, Go forth and fight against the tribe of Benjamin. They fought against Benjamin; and the next day they were again commanded to go forth and fight against Benjamin. They obeyed: and the next day they were again so commanded; and they fought until they cut off the entire tribe except six hundred men. The destruction of nearly the whole tribe of Benjamin was the punishment for one act of prostitution.

Compare the strictness that existed in ancient Israel with the whoredoms, the prostitution and even the infanticide practised in all the cities of this great nation; and then because a few individuals in this mountain Territory are practising Bible marriage a law must be enacted to inflict heavy penalties upon us; our families must be torn from us and be driven to misery, because of the piety of a civilization in which the enormities I have pointed out exist.

To close this argument I now call upon the reverend gentleman, whom I highly respect for his learning, his eloquence and ability, to bring forth proof to rebut the

passages laid down in yesterday's argument in support of the position that the Bible sanctions polygamy. I ask him to prove that those laws were limited, to unmarried men, or to the monogamic form of marriage only.

(Here the umpires announced that the time was up.)

The following are the salient points of Dr. Newman's reply :

MESSRS. UMPIRES AND LADIES AND GENTLEMEN :

I understand the gentleman to complain against me that I did not answer his scriptural arguments adduced yesterday. If I did not the responsibility is upon him. He, being in the affirmative, should have analyzed and defined the question under debate ; but he failed to do that. It therefore fell to me, not by right, but by his neglecting to do his duty ; and I did it to the best of my ability. It was of the utmost importance that this audience, so attentive and so respectable, should have a clear and definite understanding of the terms of the question ; and I desire now to inform the gentleman, that I had the answers before me to the passages which he adduced, and had I had another hour, I would have produced them then. I will do it today. Now, my learned friend will take out his pencil, for he will have something to do this afternoon.

* * * * *

A passing remark in regard to Mother Eve. I will defend the venerable woman ! If the Fall came by the influence of one woman over one man, what would have happened to the world if Adam had had more wives than one ? More, if one woman, under monogamy, brought woe into the world, then a monogamist, the blessed Virgin Mary, brought the Redeemer into the world, so I think they are even.

My friend supposes that the Almighty might have created more women than one out of Adam's ribs ; but Adam had not ribs enough to create fifty women. My friend speaks against polyandry, or the right of women to have more husbands than one. He bases his argument upon the increase of progeny. Science affirms that where polygamy or polygyny, or a plurality of wives prevails, there is a tendency to a preponderance or predominance of one sex over the other, either male or female, which amounts to an extermination of the race.

I will reply, in due time, to the gentleman's remarks in regard to Gideon and other scriptural characters, and especially in regard to prostitution, or what is known as the social evil. But first, what was the object of the gentleman yesterday ? It was to discover a general law for the sanction of polygamy. Did he find that law ? I deny it.

* * * * *

Now I propose to produce a law this afternoon, simple, direct and positive, that polygamy is forbidden in God's holy word. In Leviticus xviii. and 18th, it is written : "Neither shalt thou take one wife to another, to vex her, to uncover her nakedness, besides the other in her life time." There is a law in condemnation of polygamy. It may be said that what I have read is as it reads in the margin, but that in the body of the text it reads : "Neither shalt thou take a wife to her sister, to vex her, to uncover her nakedness, besides the other in her lifetime." Very well, *argumentum ad hominem*, I draw my argument from the speech of the gentleman yesterday. Mr. Pratt said, in his comments upon the text, "If brethren dwell together." Now it is well enough in the

reading of this to refer to the margin, as we have the liberty, I believe, to do so, and you will find that in the margin the word brother is translated "near kinsmen." I accept this mode of reasoning; he refers to the margin, and I refer to the margin; it is a poor rule that will not work both ways; it is a poor rule that will not favor monogamy if it favor polygamy. Such then is the fact stated in this law.

Now it is necessary for us to consider the nature of this law; and to expound it to your understanding, it may be proper for me to say that this interpretation, as given in the margin, is sustained by the most eminent biblical and classical scholars in the history of Christendom—by Bishop Jewell, by the learned Cookson, by the eminent Dwight, and other distinguished biblical scholars. It is an accepted canon of interpretation that the scope of the law must be considered in determining the sense of any portion of the law, and it is equally binding upon us to ascertain the mind of the legislator, from the preface of the law, when such preface is given. The first few verses of the xviii. chapter of Leviticus are prefatory. In the 3rd verse it is stated that—

"After the doings of the land of Egypt, wherein ye dwelt, shall ye not do: and after the doings of the land of Canaan, whither I bring you, shall ye not do: neither shall ye walk in their ordinances."

Both the Egyptians and the Canaanites practised incest, idolatry, sodomy, adultery and polygamy. From verse 6 to verse 17, inclusive, the law of consanguinity is laid down, and the blood relationship defined. Then the limits within which persons were forbidden to marry, and in verse 18 the law against polygamy is given—"neither shalt thou take a wife to her sister," but as we have given it, "neither shalt thou take one wife to another," etc.

According to Dr. Edwards, the words which are translated a "wife" or "sister" are found in the Hebrew but eight times, and in each passage they refer to inanimate objects, such as the wings of the cherubim, tenons, mortises, etc., and signify the coupling together, one *to another*, the same as thou shalt not take one wife *to another*.

* * * * *

The gentleman quoted Deuteronomy xxi., 15-17, which is the law of primogeniture, and is designed to preserve the descent of property:

"If a man have two wives, one beloved and another hated, and they have borne him children, *both* the beloved and the hated; and *if* the first-born son be hers that was hated;

"Then shall it be, when he maketh his sons to inherit *that* which he hath, *that* he may not make the son of the beloved first-born before the son of the hated, *which is indeed* the first-born:

"But he shall acknowledge the son of the hated *for* the first-born by giving him a double portion of all that he hath; for he *is* the beginning of his strength; for the right of the first-born *is* his."

How did he apply this law? Why he first assumed the prevalence of polygamy among the Jews in the wilderness, and then said the law was made for polygamous families as well as for monogamous. He says—"Inasmuch as polygamy is nowhere condemned in the law of God, we are entitled to construe this law as applying to polygamists." But I have shown already that Leviticus xviii., 18, is a positive prohibition

of this law, and therefore this passage must be interpreted by that which I have quoted. I propose to erect the balance today, and try every scriptural argument which he has produced in the scales of justice.

I have cited to you God's solemn law—"Neither shall a man take one wife unto another;" and I will try every passage by this law. My friend spent an hour here yesterday in seeking a general law; in a minute I gave you a general law. * * * Now it is said: "If a man have two wives:" very well, if that is a privilege so also are these words: "If a man shall steal an ox or a sheep and kill it and sell it, he shall restore five oxen for the one he stole, and four sheep for the sheep." If the former assertion is a sanction of polygamy, then the latter assertion is a sanction of sheep stealing, and we can all go after the flocks this afternoon.

The second passage, in Exodus xxi, 7th to 11th verses, referring to the laws of breach of promise, Mr. Pratt says proves or favors polygamy, in his opinion; but he did not dwell long upon this text. He indulged in an episode on the lost manuscripts. Now let us enquire into the meaning of this passage:

"And if a man sell his daughter to be a maid-servant, she shall not go out as the men-servants do.

"If she please not her master, who hath betrothed her to himself, then shall he let her be redeemed; to sell her unto a strange nation he shall have no power, seeing he hath dealt deceitfully with her.

"And if he hath betrothed her unto his son, he shall deal with her after the manner of daughters.

"If he take him another wife, her food, her raiment, and her duty of marriage shall he not diminish.

"And if he do not these three unto her, then shall she go out free without money."

What are the significant points in this passage? They are simply these—According to the Jewish law, a destitute Jew was permitted to apprentice his daughter for six years for a pecuniary consideration; and to guard the rights of this girl there were certain conditions: First, the period of her indenture should not extend beyond six years; she should be free at the death of her master, or at the coming of the year of jubilee. The next condition was that the master or his son should marry the girl. What therefore are we to conclude from this passage? Simply this: that neither the father nor the son marry the girl, but simply betrothed her; that is, engaged her, promised to marry her: but before the marriage relation was consummated the young man changed his mind, and then God Almighty, to indicate his displeasure at a man who would break the vow of engagement, fixes the following penalties, namely, that he shall provide for this woman, whom he has wronged, her food, her raiment and her dwelling, and these are the facts: and the gentleman has not proved, the gentleman cannot prove, that either the father or the son marry the girl.

The next passage is recorded in Deuteronomy xxv chapter, and from the 5th to the 10th verses, referring to the preservation of families:

"If brethren dwell together, and one of them die and have no child, the wife of the dead shall not marry without unto a stranger; her husband's brother shall go in unto

her, and take her unto him to wife, and perform the duty of a husband's brother unto her. * * * * *

What is the object of this law? Evidently the preservation of families and family inheritances. And now I challenge the gentleman to bring forward a solitary instance in the Bible where a married man was compelled to obey this law. * * *
He refers me to Numbers xxxi, 17th and 18th verses :

“ Now, therefore, kill every male among the little ones, and kill every woman that hath known man by lying with him.

“ But all the women-children, that have not known man by lying with him, keep alive for yourselves.”

This passage has nothing whatever to do with polygamy. It is an account of the results of a military expedition of the Jews against the Midianites; their slaughter of a portion of the people, and the reduction of the remainder to slavery—namely the women for domestics. My friend dwells upon thirty-two thousand women that were saved! What were these among the Jewish nation—a people numbering two and a half millions?

He quotes Deuteronomy xxi, 10th and 13th verses :

“ When thou goest forth to war against thine enemies, and the Lord thy God hath delivered them into thy hands, and thou hast taken them captive;

“ And seest among the captives a beautiful woman, and hast a desire unto her that thou wouldst have her to thy wife;

“ Then thou shalt bring her home to thine house; and she shall shave her head, and pare her nails;

“ And she shall put the raiment of her captivity from off her, and shall remain in thine house, and bewail her father and her mother a full month: and after that thou shalt go in unto her, and be her husband and she shall be thy wife.”

This passage is designed to regulate the treatment of a captive woman by the conqueror who desires her for a wife, and has no more to do with polygamy than it has to do with theft or murder. Not a solitary word is said about polygamy, no mention is made that the man is married, therefore every jurist will agree with me that where we find a general law we may judge a special enactment by the organic, fundamental principle.

He quoted Exodus xxii chapter 16 and 17; and Deuteronomy xxii, and 28 and 29 :

“ And if a man entice a maid that is not betrothed, and lie with her, he shall surely endow her to be his wife.

“ If her father utterly refuse to give her unto him, he shall pay money according to the dowry of virgins.”

In Deuteronomy it is said :

“ If a man find a damsel that is a virgin, which is not betrothed, and lay hold on her, and lie with her, and they be found;

“ Then the man that lay with her shall give unto the damsel's father fifty shekels of silver, and she shall be his wife; because he hath humbled her, he may not put her away all his days.”

My friend appeared to confound these two laws, as if they had reference to the same crime ; but the first is the law of seduction, while the second was the law of rape. In both cases the defiler was required to marry his victim ; but in the case of seduction, if the father of the seduced girl would not consent to the marriage, then the sum usual to the dowry of a virgin should be paid him and the offense was expiated. But what was the penalty of rape ? In that case there was no ambiguity—the ravisher married his victim and paid her father fifty pieces of silver besides. But what has this to do with polygamy ? He says it is a general law and applies to married men. This cannot be so, because it is in conflict with the great law of Leviticus xviii, 18. * * *

The next passage is the 2nd Chronicles, xxiv and 3rd, &c. It is the case of Joash the king, and when he began to reign Jehoiada was high priest. He was more than that—he was regent. My friend in portraying the character of this great man said that because he took two wives for King Joash he was so highly honored that when he died he was buried among the kings. But the fact is, he was regent, and there was royalty in his regency, and this royalty entitled him to be interred in the royal mausoleum. All that is said in Chronicles is simply an epitome—a summing up, that King Joash had two wives. It does not say that he had them at the same time ; he might have had them in succession. I give you an illustration : John Milton was born in London, 1609. He was an eminent scholar, a great statesman and a beautiful poet ; and John Milton had three wives. There I stop. Are you to infer that John Milton had these three wives simultaneously ? Why you might, according to the gentleman's interpretation of this passage. But John Milton had them in succession. But more than this, for argument's sake grant the position assumed by my friend, then the numerical element of the argument must come out, and a man can only have two wives and no more. Do you keep that law here ? And yet that is the argument and that is the logical conclusion.

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Now, I come to the assumptions by the gentleman. First, that there is no law condemning or forbidding polygamy. Has he proved that ? Second, that the Hebrew nation, as it was in the wilderness, when the Mosaic code was given, was polygamous. Has he proved that ? Can he find in the whole history of the Jewish nation, from the time they left Egypt to the time they entered the land of Canaan, can he find more than one instance of polygamy ? Perhaps he may find two. I will be glad to receive that information, for I am a man seeking light, and today I throw down a challenge to your eminent defender of the faith, to produce more than two instances of polygamy, from the time the Jews left the land of Egypt to the time they entered Canaan. I will assist him in his research and tell him one, and that was Caleb. Now supposing that a murder should be committed in your city, would it be fair for Eastern papers to say that the Mormons are a murderous people ? No, I would rise up in defense of you ; I would say that that is a crime and an injury to the people here ! Yet, during a period of forty years we find one man out of two millions and a half of people practising polygamy, and my friend comes forward and assumes that the Israelites were polygamists.

Third, that these laws were given to regulate among them an institution already existing. Has he proved that ? Supposing he could prove that Moses attempted, or did legislate for the regulation of polygamy, as it did exist in Egypt and elsewhere, would such

legislation establish a sanction? Why in Paris they have laws regulating the social evil ; is that an approval of the social evil? There are laws in most of the States regulating and controlling intemperance. Do excise laws sanction intemperance? Nothing of the kind. For argument's sake I would be willing to concede that Moses did legislate in regard to polygamy, that is, to regulate it, to confine its evils, and yet my friend is too much of a legislator to stand here and assert that laws regulating and defining were an approval of a system.

Fourth, that these laws were general, applying to all men, married and unmarried. Has he proved that? I have proved to the contrary today, showing that in the passage which he quoted there is not a solitary or remote intimation that the men were married.

* * * * *

We, today, then challenge for the proof that as a nation the Jews were polygamous. One or two instances, as I have already remarked, can be adduced. We may say again that if, as he assumes, these laws were given to regulate the existing system, this does not sanction it any more than the same thing sanctions sheep-stealing or homicide. He said these laws were general, applying to all men, married or unmarried. Has he proved it? This is wholly gratuitous. There is no word in either of these passages which permits or directs a married man to take more than one wife at a time. I challenge the gentleman for the proof. It is no evidence of the sanction of polygamy to bring passage after passage, which he knows, if construed in favor of polygamy, polygamy must be in direct conflict with the great organic law recorded in Leviticus xviii., 18.

On the third day of the discussion Professor Pratt opened the argument by hurling the following mathematical and logical projectile at his opponent.

Yesterday I was challenged by the Reverend Dr. Newman, to bring forth any evidence whatever to prove that there were more than two polygamist families in all Israel during the time of their sojourn in the wilderness. At least this is what I understood the gentleman to say. I shall now proceed to bring forth the proof.

The statistics of Israel in the days of Moses show that there were of males, over twenty years of age, Numbers 1st chapter, 49 verse:

“Even all they that were numbered, were six hundred thousand and three thousand, and five hundred and fifty.”

It was admitted, yesterday afternoon, by Dr. Newman, that there were two and a half millions of Israelites. Now I shall take the position that the females among the Israelites were far more numerous than the males; I mean that portion of them that were over twenty years of age. I assume this for this reason, that from the birth of Moses down until the time that the Israelites were brought out of Egypt some eighty years had elapsed. The destruction of the male children had commenced before the birth of Moses; how many years before I know not. The order of King Pharaoh was to destroy every male child. All the people, subject to this ruler, were commanded to see that they were destroyed and thrown into the river Nile. How long a period this great destruction continued is unknown, but if we suppose that one male child to every two hundred and

fifty persons was annually destroyed, it would amount to the number of ten thousand yearly. This would soon begin to tell in the difference between the numbers of males and females. Ten thousand each year would only be one male child to each two hundred and fifty persons. How many would this make from the birth of Moses, or eighty years? It would amount to 800,000 females above that of males. But I do not wish to take advantage in this argument by assuming too high a number. I will diminish it one half, which will still leave 400,000 more females than males. This would be one male destroyed each year out of every five hundred persons. The females, then, over twenty years of age would be 603,550, added to 400,000 surplus women, making in all 1,003,550 women over twenty years of age. The children, then, under twenty years of age, to make up the two and a half millions, would be 892,900, the total population of Israel being laid down at 2,500,000.

Now, then, for the number of families constituting this population. The families having first-born males over one month old, see Numbers iii chapter and 43rd verse, numbered 22,273. Families having no male children over one month old we may suppose to have been in the ratio of one-third of the former class of families, which would make 7,424 additional families. Add these to the 22,273 with first-born males and we have the sum total of 29,697 as the number of the families in Israel. Now, in order to favor the monogamists' argument, and give them all the advantage possible, we will still add to this number to make it even—303 families more, making thirty thousand families in all. Now comes another species of calculation founded on this data: Divide twenty-five hundred thousand persons by 22,273 first-born males, and we find one first-born male to every 112 persons. What a large family for a monogamist! But divide 2,500,000 persons by 30,000 and the quotient gives eighty-three persons in a family. Suppose these families to have been monogamic, after deducting husband and wife, we have the very respectable number of eighty-one children to each monogamic wife. If we assume the numbers of the males and females to have been equal, making no allowance for the destruction of the male infants, we shall then have to increase the children under twenty years of age to keep good the number of two and a half millions. This would still make eighty-one children to each of the 30,000 monogamic households. Now let us examine these dates in connection with polygamy. If we suppose the average number of wives to have been seven, in each household, though there may have been men who had no wife at all, and there may have been some who had but one wife, and there may have been others having from one up to say thirty wives, yet if we average them at seven wives each, we would then have one husband, seven wives and seventy-five children to make up the average number of eighty-three in the family, in a polygamic household. This would give an average of over ten children apiece to each of the 210,000 polygamic wives. When we deduct the 30,000 husbands from the 603,550 men over twenty years old, we have 573,550 unmarried men in Israel. If we deduct the 210,000 married women from the total of 1,003,550 over twenty years of age, we have 793,550 left. This would be enough to supply all the unmarried men with one wife each, leaving still a balance of 220,000 unmarried females to live old maids or enter into polygamic households.

The law guaranteeing the rights of the first-born, which has been referred to in other portions of our discussion, includes those 22,273 first-born male children in Israel, that is,

one first-born male child to every 112 persons in Israel: taking the population as represented by our learned friend, Mr. Newman, at two and a half millions. Thus we see that there was a law given to regulate the rights of the first-born, applying to over 22,000 first-born male children in Israel, giving them a double portion of the goods and inheritances of their fathers.

Having brought forth these statistics, let us for a few moments examine more closely these results. How can any one assume Israel to have been monogamic and be consistent? I presume that my honored friend, notwithstanding his great desire and earnestness to overthrow the Divine evidences in favor of polygamy, would not say to this people that one wife could bring forth eighty-one children. We can depend upon these proofs—upon these biblical statistics. If he assumes that the males and females were nearly equal in number, that Israel was a monogamic people, then let Mr. Newman show how these great and wonderful households could be produced in Israel, if there were only two polygamic families in the nation. * * * * *

I have therefore established that Israel was a polygamic nation when God gave them the laws which I have quoted, laws to govern and regulate a people among whom were polygamic and monogamic families. * * * Now if God gave laws to a people having these two forms of marriage in the wilderness, he would adapt such laws to all. He would not take up isolated instances here and there of a man having one wife, but He would adapt His laws to the whole; to both the polygamic and monogamic forms of marriage throughout all Israel.

But we are informed by the reverend Doctor that the law given for the regulation of matters in the polygamic form of marriage bears upon the face of it the condemnation of polygamy. And to justify his assertion he refers to the laws that have been passed in Paris to regulate the social evil; and to the excise laws passed in our own country to regulate intemperance; and claims that these laws for the regulation of evils are condemnatory of the crimes to which they apply. But when Parisians pass laws to regulate the social evil they acknowledge it as a crime. When the inhabitants of this country pass laws to regulate intemperance, they thereby denounce it as a crime. And when God gives laws, or even when human legislatures make penal laws, they denounce as crimes the acts against which these laws are directed, and attach penalties to them for disobedience. When the law was given of God against murder, it was denounced as a crime by the very penalty attached, which was death; and when the law was given against adultery its enormity was marked by the punishment—the criminal was to be stoned to death. It was a crime and was so denounced when the law was given. God gave laws to regulate these things in Israel; but because he has regulated many great and abominable crimes by law, has he no right to regulate that which is good and moral as well as that which is wicked and immoral? For instance, God introduced the law of circumcision and gave commands regulating it; shall we, therefore say, according to the logic of the gentleman, that circumcision was condemned by the law of God, because it was regulated by the law of God? That would be his logic, and the natural conclusion according to his logic. Again, when God introduced the Passover, He gave laws how it should be conducted. Does that condemn the Passover as being immoral because regulated by law? But still closer home, God gave laws to regulate the monogamic form

of marriage. Does that prove that monogamy is condemned by the law of God, because thus regulated? Oh, that kind of logic will never do!

Now, then we come to that passage in Leviticus the. xviii. chapter, and the 18th verse, the passage that was so often referred to in the gentleman's reply yesterday afternoon. I was very glad to hear the gentleman refer to this passage. The law, according to King James' translation, as we heard yesterday afternoon, reads thus: "Neither shalt thou take a wife to her sister to vex her, to uncover her nakedness, besides the other in her lifetime." That was the law according to King James' translation. My friend, together with Doctors Dwight and Edwards, and several other celebrated commentators, disagree with that interpretation; and somebody, I know not whom, some unauthorized person, has inserted in the margin another interpretation: recollect in the margin and not in the text. It is argued that this interpretation in the margin must be correct, while King James' translators must have been mistaken. Now, recollect that the great commentators who have thus altered King James' translation were monogamists. So were the translators of the Bible; they too were monogamists. But with regard to the true translation of this passage, it has been argued by my learned friend that the Hebrew—the original Hebrew—signifies something a little different from that which is contained in King James' translation. These are his words, as will be found in his sermon preached at Washington, upon this same subject: "But in verse 18 the law against polygamy is given, 'Neither shalt thou take a wife to her sister;' or as the marginal reading is, 'Thou shalt not take one wife to another.' And this rendering is sustained by Cookson, by Bishop Jewell and by Drs. Edward and Dwight," four eminent monogamists, interested in sustaining monogamy. According to Dr. Edwards, the words which we translate "a wife to her sister" are found in the Hebrew but eight times. Now we have not been favored with these authorities, we have had no access to them. Here in these mountain wilds it is very difficult to get books. In each passage they refer to inanimate objects; that is, in each of the eight places where the words are found. We have searched for them in the Hebrew and can refer you to each passage when they occur. And each time they refer to objects joined together, such as wings, loops, curtains, etc., and signify coupling together. The gentleman reads the passage, "Thou shalt not take one wife to another," and understands it as involving the likeness of one thing to another, which is correct. But does the language forbid, as the margin expresses it, the taking of one wife to another? No; we have the privilege, according to the rules or articles of debate, which have been read this afternoon, to apply to the original Hebrew. What are the Hebrew words—the original—that are used? *Veishah elahotah lo tikkah*: this, when literally translated and transposed is, "Neither shalt thou take a wife to her sister," *veishah* being translated by King James' translation "a wife," *el-ahotah* being translated "her sister;" *lo* is translated "neither;" while *tikkah* is translated by King James' translation "shalt thou take." They have certainly given a literal translation. Appeal to the Hebrew and you will find the word *ishah* occurs hundreds of times in the Bible, and is translated "wife." The word *ahotah*, translated by King James' translators "a sister," occurs hundreds of times in the Bible, and is translated "sister." But are these the only translations—the only renderings? *Ishah*, when

it is followed by *ahot*, has another rendering. That is, when "wife" is followed by "sister," there is another rendering.

Translators have no right to give a double translation to the same Hebrew word, in the same phrase : if they translate *veishah* one, they are not at liberty to translate the same word in the same phrase over again and call it wife. This Dr. Edwards, or some other monogamist, has done, and inserted this false translation in the margin. What object such translator had in deceiving the public must be best known to himself; he probably was actuated by a zeal to find some law against polygamy, and concluded to manufacture the word "wife," and place it in the margin, without any original Hebrew word to represent it. *Ahot*, when standing alone, is rendered *sister*, when preceded by *ishah*, is rendered *another*; the suffix *ah*, attached to *ahot*, is translated *her*; both together (*ahot-ah*) are rendered *her sister*, that is *sister's sister*; when *ahot* is rendered *another*, its suffix *ah* represents *her*, or more properly the noun *sister*, for which it stands. The phrase will then read: *Veishah* (one) *el-ahotah* (sister to another) *lo* (neither) *tikkah* (shalt thou take) which, when transposed, reads thus: *Neither shalt thou take one sister to another*. This form of translation agrees with the rendering given to the same Hebrew words or phrases in the seven other passages of scripture referred to by Dr. Newman and Dr. Edwards. (See Exodus xxvi., 3, 5; Ezekiel i., 9, 11, 23; also iii., 13.)

It will be seen that the latter form of translation gives precisely the same idea as that given by the English translators in the text. It also agrees with the twelve preceding verses of the law, prohibiting intermarriages among blood relations, and forms a part and parcel of the same code; while the word "wife," inserted in the margin, is not, and cannot, by any possible rule of interpretation, be extorted from the original connection with the second form of translation.

Why should King James' literal translation "wife" and "sister" be set aside for "one to another?" There is this difference: in all the other seven passages where the words *veishah el-ahotah* occur there is a noun in the nominative case preceding them, denoting something to be coupled together. Exodus 26th chapter, 3rd verse contains *ishah el-ahotah* twice, signifying to couple together the curtains one to another, the same words being used that are used in this text. Go to the fifth verse of the same chapter, and there we have the loops of the curtains joined together one to another, the noun in the nominative case being expressed. Next go to Ezekiel, 1st chapter, 9th, 11th and 23rd verses, and these three passages give the rendering of these same words, coupling the wings of the cherubim one to another. Then go again to the 3rd chapter of Ezekiel and the 13th verse, and the wings of the living creatures were joined together one to another. But in the text under consideration no such noun in the nominative case occurs; and hence the English translators were compelled to give each word its literal translation.

The law was given to prevent quarrels, which are apt to arise among blood relations. We might look for quarrels on the other side between women who were not related by blood; but what are the facts in relation to quarrels between blood relations? Go back to Cain and Abel. Who was it that spilled the blood of Abel? It was a blood relation, his brother. Who was it that cast Joseph into the pit to perish with hunger and afterwards dragged him forth from his den and sold him as a slave to persons trading through

the country? It was blood relations. Who slew the seventy sons of Gideon upon one stone? It was one of their own brothers that hired men to do it. Who was it that rebelled against King David, and caused him with all his wives and household, excepting ten concuhines, to flee out of Jerusalem? It was his blood relation, his own son Ahsalom. Who quarreled in the family of Jacob? Did Bilhah quarrel with Zilpah? No. Did Leah quarrel with Bilhah or Zilpah? No such thing is recorded. Did Rachel quarrel with either of the handmaidens? There is not a word concerning the matter. The little petty difficulties occurred between the two sisters, blood relations, Rachel and Leah. And this law was probahly given to prevent such vexations between blood relations—between sister and sister.

Having effectually proved the marginal reading to be false, I will now defy not only the learned gentleman, but all the world of Hebrew scholars, to find any word in the original to be translated "*wife*" if *ishah* he first translated "*one*." * * *

The next subject to which I will call your attention is in regard to the general or unlimited language of the laws given in the various passages which I have quoted. If a man shall commit rape, if a man shall entice a maid, if a man shall do this, or that, or the other, is the language of these passages. Will any person pretend to say that a married man is not a man? And if a married person is a man, it proves that the law is applicable to married men, and if so, it rests with my learned friend to prove that it is limited. Moreover, the passage from the margin in Leviticus was quoted by Dr. Newman as a great fundamental law by which all the other passages were to be overturned. But it has failed; and, therefore, the other passages quoted by me stand good unless something else can be found by the learned gentleman to support his forlorn hope.

Perhaps we may hear quoted in the answer to my remarks the passage that the future king of Israel was not to multiply wives to himself. That was the law. The word multiplied is construed by those opposed to polygamy to mean that twice one make two, and hence that he was not to multiply wives, or, in other words, that he was not to take two. But the command was also given that the future king of Israel was not to multiply horses any more than wives. Twice one make two again. Was the future king of Israel not to have more than one horse? The idea is ridiculous! The future king of Israel was not to multiply them; not to have them in multitude, that is, only to take such a number as God saw proper to give him. * * * * *

I wish now to examine a passage that is contained in Matthew, in regard to divorces and also in Malachi, on the same subject. Malachi, or the Lord by the mouth of Malachi, informs the people that the Lord hated putting away. He gave the reason why a wife should not be put away. Not a word against polygamy in either passage.

But there is certain reasoning introduced to show that a wife should not be put away. In the beginning the Lord made one, that is a wife for Adam, that he might not be alone. Woman was given to man for a companion, that he might protect her, and for other holy purposes, but not to be put away for trivial causes; and it was cause of condemnation in those days for a man to put away his wife. But there is not a word in Malachi condemnatory of a man marrying more than one wife. Jesus also gives the law respecting divorces, that they should not put away their wives for any other cause than that of fornication; and he that took a wife that was put away would commit adultery.

Jesus says in the 5th chapter that he that putteth away his wife for any other cause than fornication causes her to commit adultery. Then the husband is a guilty accomplice, and if he puts away his wife unjustly he is guilty of adultery himself, the same as a confederate in murder is himself a murderer. As an adulterer he has no right to take another wife; he has not the right to take even one wife. His right is to be stoned to death; to suffer the penalty of death for his sin of adultery. Consequently, if he has no right to even life itself, he has no right to a wife. But the case of such a man, who has become an adulterer by putting away his wife, and has no right to marry another, has no application, nor has the argument drawn from it any application, to the man who keeps his wife and takes another. The law referred to by my learned opponent, in Leviticus xviii and 18, shows that polygamy was in existence, but was to be kept within the circle of those who were not blood relations.

Concerning the phrase "duty of marriage," occurring in the passage, "If a man take another wife, her food, her raiment, and her duty of marriage shall he not diminish." The condition here referred to is something more than mere betrothal. It is something showing that the individual has been not merely previously betrothed, but is actually in the married state, and the duty of marriage is clearly expressed. What is the meaning of the original word? It does not mean dwelling nor refuge, as asserted in the New York *Herald* by Dr. Newman. Four passages are quoted by him in which the Hebrew word for dwelling occurs, but the word translated "duty" of marriage, is entirely a distinct word from that used in the four passages referred to. Does not the learned Doctor know the difference between two Hebrew words? Or what was his object in referring to a word elsewhere in the Scripture that does not even occur in the text under consideration? In a Hebrew and English Lexicon (published by Josiah W. Gibbs, A. M., Prof. of Sacred Liter. in the Theological School in Yale College), page 160, it refers to this very Hebrew word and to the very passage, Exodus xxxi, 10, and translates it thus—"cohabitation;" "duty of marriage." "Duty of marriage," then, is "cohabitation;" thus God commands a man who takes another wife, not to diminish the duty of cohabitation with the first. Would God command undiminished "cohabitation" with a woman merely betrothed and not married? * * * * *

Having discussed the subject so far, I leave it now with all candid persons to judge. Here is the law of God; here is the command of the Most High, general in its nature, not limited, nor can it be proved to be so. There is no law against it, but it stands as immovable as the Rock of Ages, and will stand when all things on the earth and the earth itself shall pass away.

Dr. Newman thus closed the debate:

I had heard, prior to my coming to your city, that my distinguished opponent was eminent in mathematics, and certainly his display today confirms that reputation. Unfortunately, however, he is incorrect in his statements. First, he assumes that the slaying of all the male children of the Hebrews was continued through eighty years; but he has failed to produce the proof. To do this was his starting point. He assumes it; where is the proof, either in the Bible or Josephus? And until he can prove that the destruction of the male children went on for eighty years, I say this argument has no

more foundation than a vision. Then he makes another blunder: the 303,550, the number of men above twenty years of age, mentioned in this case, were men to go to war; they were not the total population of the Jewish nation, and yet my mathematical friend stands up here today and declares the whole male population above twenty years of age consisted of 303,550, whereas it is a fact that this number did not include all the males.

Then again the 22,273 first-born do not represent the number of families in Israel at that time, for many of the first-born were dead. These are the blunders that the gentleman has made today, and I challenge him to produce the contrary and prove that he is not guilty of these numerical blunders. Then he denies the assertion made yesterday that there could not be brought forward more than one or two instances of polygamy in the history of Israel from the time the Hebrews left Egypt to the time they entered Canaan. Has he disproved that? He has attempted to disprove it by a mathematical problem, which problem is based on error: his premises are wrong, therefore his conclusions are false. Why didn't he turn to king James' translation? I will help him to one polygamist, that is Caleb. Why didn't he start with old Caleb, and go down and give us name after name and date after date of the polygamists recorded in the history of the Jews while they were in the wilderness? Ladies and gentlemen, he had none to give, and therefore the assertion made yesterday is true, that during the sojourn of the children of Israel in the wilderness there is but one instance of polygamy recorded.

Now we come to law that I laid down yesterday—"Neither shalt thou take one wife to another," I reaffirm that the translation in the margin is perfect to a word. He labors to show that God does not mean what he says. That the phrase "one wife to another," may be equally rendered one woman to another, or one wife to her sister. The very same phrase is used in the other seven passages named by Dr. Dwight. For example, Exodus xxvi, 3, Ezekiel i, 9, etc. He admits the translation in these passages to be correct. If it is correct in these passages, why is it not correct in the other? His very admission knocks to pieces his argument. Why then does he labor to create the impression that the Hebrew *ishau* means woman or wife: What is the object of the travail of his soul? the word *ahoot*, he contends, means sister; but sister itself is a word which means a specific relation, and a generic relation. Every woman is sister to every other woman, and I challenge the gentleman to meet me on paper at any time, in the newspapers of your city or elsewhere, upon the Hebrew of this text. I reaffirm it, reaffirm it in the hearing of this learned gentleman, reaffirm it in the hearing of these Hebraists, that as it is said in the margin, is the true, rendering, namely, "neither shalt thou take one wife to another." But supposing that is incorrect, permit me, before I pass on, to remind you of this fact: he refers, I think, in his first speech, to the "margin:" the margin was correct then and there, but it is not here. It is a poor rule that will not work both ways; correct when he wants to quote from the "margin," but not when I want to do so. He quoted from the margin, and I followed his illustrious example.

And now, my friends, supposing that the text means just what he says, namely, "neither shalt thou take a wife unto her sister, to vex her:" supposing that is the rendering, and he asserts it is, and he is a Hebraist, I argued and brought the proof yesterday that this law of Moses is not kept by the Mormons; in other words there are men in

your very midst who have married sisters. Where was the gentleman's solemn denunciation of the violation of God's law? * * * * *

He refers us to the multiplication of horses. I suppose a king may have one horse or two, there is no special rule; but there is a special rule as to the number of wives. Neither shall the king multiply wives. God, in the beginning, gave the first man one wife, and Christ and Paul sustain that law as binding upon us. And now supposing that that is not accepted as a law, what then? Why there is no limit to the number of wives, none at all. How many shall a man have? Seven, twenty, fifty, sixty, a hundred? Why, they somewhere quote a passage that if a man forsake his wife he shall have a hundred. Well, he ought to go on forsaking; for if he will forsake a hundred he will have ten thousand; and if he forsake ten thousand he will have so many more in proportion. It is his business to go on forsaking. That is in the Professor's book called the Secr. Such a man would keep the Almighty busy creating women for him.

* * * * *

I take up Abraham. It is asserted that he was a polygamist. I deny it. There is no proof that Abraham was guilty of polygamy. What are the facts? When he was called of the Almighty to be the founder of a great nation, a promise was given him that he should have a numerous posterity. At that time he was a monogamist, had but one wife—the noble Sarah. Six years passed and the promise was not fulfilled. Then Sarah, desiring to help the Lord to keep his promise, brought her Egyptian maid Hagar, and offered her as a substitute for herself to Abraham. Mind you, Abraham did not go after Hagar, but Sarah produced her as a substitute. Immediately after the act was performed Sarah discovered her sin and said, "My wrong be upon thee." "I have committed sin, but I did it for thy sake, and therefore the wrong that I have committed is upon thee." Then look at the subsequent facts: by the Divine command this Egyptian girl was sent away from the abode of Abraham by the mutual consent of the husband and the wife; by the Divine command, it is said that she was recognized as the wife of Abraham, but I say you cannot prove it from the Bible; but it is said that she was promised a numerous posterity. It was also foretold that Ishmael should be a wild man—"his hand against every man and every man's hand against him." Did that prediction justify Ishmael in being a robber and a murderer? No, certainly not; neither did the other prediction, that Hagar should have a numerous posterity, justify the action of Abraham in taking her. After she had been sent away by Divine command, God said unto Abraham—"now walk before me and be thou perfect."

These are facts, my friends. I know that some will refer you to Keturah; but this is the fact in regard to her: Abraham lived thirty-eight years after the death of Sarah; the energy miraculously given to Abraham's body for the generation of Isaac was continued after Sarah's death; but to suppose that he took Keturah during Sarah's lifetime is to do violence to his moral character. * * * Then we come to the case of Jacob. What are the facts in regard to him? Brought up in the sanctity of monogamy, after having robbed his brother of his birthright, after having lied to his blind old father, he then steals away and goes to Padan-aram and there falls in love with Rachel; but in his bridal bed he finds Rachel's sister Leah. He did not enter polygamy voluntarily, but he was imposed upon. As he had taken advantage of the blindness of his father and

thereby imposed upon him, so also was he imposed upon by Laban in the darkness of the night. But I hold this to be true that Jacob is nowhere regarded as a saintly man prior to his conversion at the brook of Jabbok. After that he appears to us in a saintly character.

I wish my friend had referred to the case of Moses. In his sermon on celestial marriage he claims that Moses was a polygamist, and he declares that the leprosy that was sent upon Miriam was for her interference with the polygamous marriage of Moses. What are the facts? There is no record of second marriage. * * * Zipporah and the Ethiopian woman are one and identical; it is one and the same person called by different names. * * * Moses was not a polygamist. Surely the founder of a polygamist nation and the revealer of a polygamist law, as this gentleman claims, should have set an example, and should have had a dozen or a hundred wives. This son of Jochebed; he was a monogamist, and stands forth as being a reproof to polygamists in all generations.

Now we come to Gideon. And what about this man? An angel appeared to him, that is true; but if the practice of polygamy by Gideon is a law to us, then the practice of idolatry by Gideon is also a law to us. If there is silence in the Bible touching the polygamy of Gideon, there is also silence in the Bible touching idolatry, and if one is sanctioned so also is the other.

* * * * *

Ah! you bring forward these few cases of polygamy! Name them if you please. Lamech, the murderer; Jacob, who deceived his blind old father, and robbed his brother of his birthright; David, who seduced another man's wife and murdered that man by putting him in front of the battle, and old Solomon, who turned to be an idolator. These are some polygamists! Now let me call the roll of honor: These were Adam, Enoch, Noah, Abraham, Isaac, Moses, Aaron, Joshua and Joseph and Samuel, and all the prophets and apostles. You are accustomed to hear, from this sacred place, that all the patriarchs and all the kings and all the prophets were polygamists. I assert to the contrary, and these great and eminent men whom I have just mentioned, belonging to the roll of honor, were monogamists.

Yesterday the gentleman gave me three challenges: he challenged me to show that the New Testament condemned polygamy. I now proceed to do it. I quote Paul's words, 1st Corinthians, 7th chapter, 2nd and 4th verses:

"Nevertheless to avoid fornication, let every man have his own wife, and let every woman have her own husband.

"The wife hath not power of her own body, but the husband; and likewise also the husband hath not power of his own body, but the wife."

* * * * *

There is a passage which declares that "a bishop must be blameless, the husband of one wife." It is asserted that he must have one wife anyhow and as many more as he pleases. It is supposed this very caution indicates the prevalence of polygamy in that day; but no proof can be brought to bear that polygamy prevailed extensively at that time; on the contrary, I am prepared to prove that polygamists were not admitted into the

Christian Church, for Paul lays down the positive command: "Let every man have his own wife, and every woman her own husband;" so that if you say the former applies to the priest, and the latter applies to the layman, what is good for the priest is good for the layman, and *vice versa*. * * * I proclaim the fact that polygamy is adultery. I do it in all kindness, but I assert it as a doctrine taught in the Bible.

I am challenged again to prove that polygamy is no prevention of prostitution. It has been affirmed time and time again, not only in this discussion, but in the written works of these distinguished gentlemen around me, that in monogamic countries prostitution, or what is known as the social evil, is almost universally prevalent. I perceive that I have not time to follow out this in argument; but I am prepared to prove, and I will prove it in your daily papers, that prostitution is as old as authentic history; that prostitution has been and is today more prevalent in polygamic countries than in monogamic countries. I can prove that the figures representing prostitution in monogamic countries are all overdrawn. They are overdrawn in regard to my native city, that the gentleman brought up, New York, and of the million and over of population he can not find six thousand recorded prostitutes. I can go, for instance to St. Louis, where they have just taken the census of the prostitutes of that city, and with a population of three hundred thousand, there are but 650 courtesans. You may go through the length and breadth of this land, and to villages containing from one thousand to ten thousand inhabitants, you cannot find a house of prostitution. The truth is, my friends, they would not allow it for a moment. Those men who assert that our monogamous country is full of prostitutes put forth a slander upon our country.

* * * * *

There was another point that I desired to touch upon, and that is as to the longevity of nations. We are told repeatedly here, in printed works, that monogamic nations are short-lived, and that polygamic nations are long-lived. I am prepared to go back to the days of Nimrod, come down to the days of Ninus Sardanapalus, and down to the days of Cyrus the Great, and all through those ancient polygamic nations, and show that they were short-lived; while on the other hand I am prepared to prove that Greece and Rome outlived the longest-lived polygamic nation of the past. Greece, from the days of Homer, down to the third century of the Christian era; and Rome from seven hundred and fifty years before the coming of Christ down to the dissolution of the old empire. But that old empire finds a resurrection in the Italians under Victor Emanuel and Garibaldi; and England, Germany and France are all proofs of the longevity of monogamic nations. Babylon is a ruin today, and Babylon was polygamic. Egypt, today, is a ruin! Her massy piles of ruin bespeak her former glory and her pristine beauty. And the last addition of the polygamic nations—Turkey—is passing away. From the golden horn and the Bosphorus, from the Danube, and the Jordan and the Nile, the power of Mohammedanism is passing away before the advance of the monogamic nations of the old world. Our own country is just in its youth; but monogamic as it is it is destined to live on, to outlive the hoary past, to live on its greatness, in its beneficence, in its power; to live on until it has demonstrated all those great problems committed to our trust for human rights, religion, liberty, and the advancement of the race.

So ended the great discussion at the Tabernacle. The controversy, however, was continued in the local press. Dr. Newman, having, through the *Tribune*, reaffirmed the soundness of his "marginal law"—Leviticus xviii., 18—as a prohibition of polygamy, showing that he regarded that text as the back-bone of his argument against plurality of wives, Apostle Pratt replied to him through the *Deseret News* as follows:

"Thou shalt not take *one wife to another*, to vex her," etc. Marginal reading, Leviticus xviii. 18.

In a letter of Rev. Dr. Newman, published in this city on the 20th inst., he labors very hard to bring together and patch up the demolished and tattered fragments of his great fundamental *marginal law* against polygamy. Having noticed the great stress laid upon this *marginal reading* in his Washington sermon, I was in great hopes that he would again introduce it in the discussion. To call him out and give him confidence in appealing to the *margin*, in my opening speech I purposely referred to a non-essential *marginal reading* in the 25th of Deuteronomy. This had the desired effect; for on the next day the reverend Doctor assumed the *marginal reading* given above, as the great constitutional law, before which all other laws relating to plural marriages were to be nullified and vanish away like smoke; he made it the grand standard,—the foundation of nearly all his future arguments, during the discussion.

On the third day, a few minutes were occupied in comparing his marginal law with the original Hebrew, showing that the marginal reading was false, and could not for a moment stand the test of the original. But being limited in time, the arguments were necessarily very brief. I now propose to examine this unwarranted reading in the margin in greater detail, and expose still further its falsity, and establish the correctness of the version, given in the text by the English translators.

The phrase, *ishah el-ahotah*, is translated in the text "*a wife to her sister*:" this is the proper, legitimate, literal rendering of each word. When *ishah* (woman, wife) is followed by *ahot* (sister), the phrase may, under certain circumstances, have two renderings.

First: When the persons or beings in the feminine gender, to be coupled together, are not expressed, a *literal translation* is necessary to show what class of persons, (such as near kinswomen, aunts, cousins, nieces, sisters, etc.,) shall or shall not be joined together; otherwise the sentence would be vague or uncertain.

Second: When Hebrew feminine nouns represent inanimate objects, such as "curtains," "loops," "tenons," "wings," etc., (see Exodus, xxvi: 3, 5, 17, Ezekiel, i: 9, 23; iii, 13,) a literal translation would entirely destroy the meaning. How very absurd it would be to represent one curtain as *a wife* coupled to *her sister* curtain, or one loop as *a wife* to take hold of *her sister* loop, or one tenon as *a wife* set in order against *her sister* tenon. To avoid these absurdities, an idiomatic rendering of the phrase, *ishah el-ahotah* is permitted, namely, *ishah* (one)*el-ahotah* (to another). If the Hebrew phrase, in the text, take this second form it would read,

“Neither shalt thou take—one to another.”

As the blank is unknown, and there are no original words to represent the prohibited relationship, every one is left to substitute such a phrase as may seem to be most in accordance with the law contained in the twelve preceding verses. Let us fill up the blank with a few specimens, and see if we can conjecture which is most correct:

1. Neither shalt thou take (sisters) one to another.
2. Neither shalt thou take (aunts) one to another.
3. Neither shalt thou take (nieces) one to another.
4. Neither shalt thou take (cousins) one to another.
5. Neither shalt thou take (near kins-women) one to another.
6. Neither shalt thou take (wives) one to another.

The first five substitutions represent blood relations, while the last does not. There is therefore a much greater probability that any one of the first five may be the true meaning, than that the last should be correct. But why should the law rest upon this great uncertainty, when the first literal rendering of the English translators gives it a definite, plain meaning that no one can misunderstand?

I shall next proceed to show that the English translators have, in a majority of cases, given the *literal* rendering, instead of the *idiomatic*, to the masculine form of the phrase “one—another.” The masculine form is *ish el ahhiv* signifying “a man to his brother,” translated thus: *ish* (a man) *el ahhiv* (to his brother.) The suffix *iv* stands for the possessive pronoun *his*; while *ahh* stands for *brother*. When the *ish* is followed by *ahh*, the first (like the feminine form) is sometimes translated *one*, the second sometimes rendered *another*. This idiomatic rendering is, indeed, absolutely necessary when the masculine Hebrew nouns to be coupled together represent inanimate objects. For instance, the noun *faces*, of the inanimate cherubims placed over the mercy seat, is in Hebrew a masculine noun. (See Exodus xxv. 20.) “And their faces shall look one to another.” Also Exodus, xxxvii: 9. “With their faces one to another.” This could not be literally translated without manifesting the greatest absurdity. But in all other passages, the masculine phrase *ish el ahhiv* represents masculine persons, and is translated in the majority of cases literally. It may not be amiss to observe that the preposition, joining *ish—ahhiv*, is not always *el*; the prefixes *l*, *k*, *b*, are often used to express different kinds of prepositions. The phrase *ish—ahhiv*, with its coupling preposition, occurs, at least, twenty-eight times in the Old Testament, thirteen of which are translated in the idiomatic form, *one—another*; the remaining fifteen are translated literally, “*man—his brother*.” I will give a few specimens:

- Nehemiah v: 7. “Ye exact usury, every one of his brother.”
 Isaiah iii: 6. “When a man shall take hold of his brother.”
 Isaiah ix: 19. “No man shall spare his brother.”
 Isaiah xix: 2. “And they shall fight every one against his brother.”
 Jeremiah xii: 6. “And every one said to his brother.”
 Jeremiah xxiii: 35. “And every one to his brother.”
 Jeremiah xxxi: 34. “And every man his brother.”
 Jeremiah xxxiv: 14. “Every man his brother.”

Jeremiah xxxiv : 17. "Every one to his brother."

Jeremiah xiii : 14. "And I will dash them one against another."

If it were necessary we might quote the phrases in the twenty-eight passages where they occur in a masculine form : but these are sufficient to show that King James' translators used both the literal and the idiomatic forms of translation in both the masculine and feminine forms of the Hebrew phrase which occurs in Leviticus xviii : 18. The literal translation of the feminine form occurs only once ; and this arises from the singular fact that the feminine phrase occurs only once in the Hebrew, as connected with and applied to living persons in the feminine gender. Another remarkable fact, connected with the phrase in Leviticus, is, that it is the only instance out of thirty-six cases in the two genders, where the nouns or things to be coupled together are not expressed ; and for this very reason it seemed to be absolutely necessary to give the literal rendering as found in the text.

Thus we have found that the marginal reading is not only false, by an unwarranted substitution of the word "wife," but its idiomatic form also cannot be given and make sense. And therefore the text stands out in all its brightness and purity, and an everlasting condemnation of Newman's marginal law.

In the last day's discussion, I devoted a few moments in showing the falsity of Dr. Newman's rendering of the Hebrew word, translated "duty of marriage" (See Exodus xxi : 10.) He acknowledges that all the ancient and modern Hebrew Lexicons, and "all the ancient and venerable translators of the Septuagint—the famous Greek version of the Old Testament" * * * "say the word here means cohabitation." But the learned Doctor is not satisfied with this whole army of translators, renowned for their wisdom and learning. He has consulted a Jewish Rabbi in Washington, whose opinion he thinks outweighs all others in deciphering the Hebrew word for "*dwelling*." He believes that he has discovered a word translated "*dwelling*," which resembles in some points of its orthography the Hebrew word for "*cohabitation*" or "*duty of marriage*."

But let me inform the reverend gentleman that the two Hebrew words are as distinct in their orthography as the English words *unkind* and *mankind*, or *history* and *mystery*. The Hebrew for "*cohabitation*" commences with the letter *ayin* ; the Hebrew for "*dwelling*" commences with the letter *mem* : the first has two syllables ; the second has three syllables ; the former is spelled *onah* ; the latter *meonah*. It cannot be proved from any Hebrew Lexicon or Grammar that I have consulted that the two words are derived from the same verbal root ; and even if this could be proved, it would be no evidence that their meanings or definitions were the same ; for there are great numbers of different nouns whose derivations may be traced back to a common root, and yet their definitions are as distinct as "*cohabitation*" and "*dwelling*." Neither Mr. Newman, nor his Jewish Rabbi, can find one iota of proof in the original Hebrew to substantiate their unwarranted assumption that the two words are one and the same. Therefore, the eminent Hebrew and Greek scholars, both of ancient and modern times, are still to be believed when they emphatically tell us that the word in the text rendered "*duty of marriage*" means "*cohabitation*." Hence God's own law reads :

“If he take him another *wife*: her food, her raiment, and her duty of cohabitation shall he not diminish.”

This shows, most emphatically, that the betrothal of the first was consummated in marriage, and that this special duty of marriage must not be diminished.

Dr. Newman, having left Utah, was next heard from at San Francisco, regaling the coast-dwellers with a lecture on “polygamy, monogamy and polyandry,” where there were no Mormons to take exceptions to his statements, and no Professor Pratt, with Hebrew lexicon, to molest or make afraid. During the course of his address to the Californians he is reported to have said that the city of Washington was “a heaven of virtue as compared with Salt Lake City.” The editor of the *News* thus commented on this assertion: “Since we first heard Dr. Newman speak we knew that he had strange ideas of virtue; in fact that he did not understand it in the old-fashioned sense. This San Francisco statement of his confirms us in our opinion. A man who says that every wife but the first wife was in old times called a concubine, and who calls Abraham, Jacob, and other men, who he says are now in heaven, adulterers, swindlers, murderers and liars, is liable to get terribly mixed in his ideas about virtue. If he is satisfied that Washington is a virtuous, heavenly place, and he chooses to live in it, we have no objections. But when he attempts to compare the morals of that city with ours, we can only say that he is no judge of virtue and morality; and in this conclusion we are satisfied that thousands of men in the nation, who have seen both places, will join.”

Meantime the press of the country, east, west, north and south, was passing judgment upon the discussion that had just taken place. Some of the notices were discreetly non-committal, a few favored Dr. Newman, but the majority of them unqualifiedly affirmed that in the contest between the Methodist pastor and the Mormon Apostle, victory had perched upon the banner of the latter.

The New Orleans *Times* said: “Parson Newman has certainly failed in his effort to achieve notoriety through a preaching match with Brigham Young. Nearly all the papers of standing in the

country, including those of his own political complexion, deprecate his movement as undignified, useless, and more or less damaging to the general cause of Christianity. * * * It is conceded that in the observance of all social amenities, the preservation of self-respect, and the display of courteous finesse, Brigham has gotten the better of him. In the first place the Doctor lost his temper and was in consequence betrayed by Brigham into issuing an imprudent, bombastic challenge. This the Prophet accepted, turning the discussion over to two of his henchmen in a manner so redolent of contempt and conscious superiority as to call forth another bitter, angry rejoinder from the Parson, in such marked contrast to the Mormon affability displayed that he was at once placed at a hopeless disadvantage and forced to preach with his fangs drawn. He therefore returns without accomplishing any good, a living example of Brigham's great tact and intelligence. Out-generaled if not out-preached, he will have the sorry satisfaction of knowing that he has unwillingly contributed more to the Prophet's fame than any other living man. It is to be hoped the lesson may not be lost upon the Parson, in considerably lessening the arrogance for which he has always been so offensively distinguished, and in teaching him that the appointed path for the disciples of Christ to tread is that of humility. * * * We fear he has devoted himself so assiduously to the study of scripture as to prejudice the worth and influence of other useful books. We recommend one in particular to his closer attention—Chesterfield.”

“The Dr. Newman,” said the Boston *Banner of Light*, “who went forth from Washington to Salt Lake City to take Mormonism by storm by flourishing his Orthodox Bible in its face, has had to come away after a pretty severe tilt with one of the leading Elders, leaving his Bible behind him. It must have been extremely humiliating. Elder Pratt took his Bible out of his hands, and opened it again and again to pages that taught and upheld the polygamy doctrine, reading off whole volleys of historical texts that went to establish the leading Bible characters, esteemed Saints by

Orthodoxy, as regular Mormons. Dr. Newman craw-fished amazingly on this part of the argument and was at last rather glad to abandon it to his Mormon opponent. Nor did the latter leave his visible advantage unimproved; he charged home vigorously on the reverend Doctor and pointed him triumphantly to the practices of such cities as New York, where it was an acknowledged part of civilization to hold one wife, but debauch as many others as possible in the open dens of iniquity. The people committed sin enough every twenty-four hours, according to Elder Pratt, to sink them in hell permanently. And he likewise points, and justly too, to the pollution and infanticide of the nation at large, while a handful of people, practicing 'Bible Marriage' in the mountains beyond the plains, are threatened with extermination. He declares himself quite ready to compare the piety and pollution of one side with the same qualities of the other. Somebody carrying more guns than Dr. Newman will have to be sent out missionarying among the Mormons."

The Washington correspondent of the New York *Sun* stated that the controversy "did not give satisfaction" at the capital; that the reverend Doctor was "out of his depth" in the discussion, and added: "It is plain that the Apostle carries too many guns for the Chaplain of the Senate, and the consternation of those who sent him on his errand is as great as that of the confident French advocates of the 'On to Berlin' cry, at the unexpected results of that little adventure.* He also asked: "Why does Dr. Newman travel two thousand miles when so much work is left undone in his own stamping ground in the Gomorrah of Washington? Why does he not rather go, like the prophet of old, to men in high places there?"

This from the New York *Star*: "Controversy is the devil's weapon. It makes more skeptics than converts. The expectation

* At this time the Franco-German war was in progress. Hence the allusion of the *Sun's* correspondent.

that such a controversy would overturn the peculiar tenet of the Mormon religion was as chimerical as would be an attempt to 'dam up the Nile with bullrushes,' or to bolt a door with a boiled carrot."

Said the *Boston Statesman*: "The Mormons are making kid gloves. Orson Pratt, however, handled Dr. Newman without them."


The *Philadelphia Press*, in a roundabout manner, admitted Apostle Pratt's effort to be "a most effective argument," and virtually conceded that Dr. Newman had been defeated, by intimating that force alone could settle the Mormon question. Said that journal: "A grave and perhaps bloody conflict is impending between American civilization, in its western progress over the continent, and that violent reactionary movement towards barbarism which has been organized in Utah." This was almost equivalent to saying that since American civilization, represented by such men as Dr. Newman, could not prevail in argument against Mormon barbarism, represented by such men as Apostle Pratt, the arm of violence must be lifted and the question settled by bloodshed. Something similar was uttered by the anti-Mormon mobocrats of Illinois, just prior to the murder of Joseph and Hyrum Smith. "The law cannot reach them," said their baffled foes, "but powder and ball shall."

Powder and ball, however, though successfully and fatally employed in the former instance, were not destined to be the means of settling the polygamy question in Utah. A crusade was now begun against the Saints,—a crusade which Dr. Newman and the Methodist Church did all in their power to promote,—but it was a judicial, not a military movement that was projected, though the latter, as we shall see, with all its sanguinary consequences, came very near being precipitated.

CHAPTER XVIII.

1870.

GOVERNOR SHAFFER'S ADMINISTRATION—HIS INAUGURAL RESOLVE—"NEVER AFTER ME SHALL IT BE SAID THAT BRIGHAM YOUNG IS GOVERNOR OF UTAH"—THE SHAFFER-KELSEY INTERVIEW—GENERAL SHERIDAN AT SALT LAKE CITY—MORE TROOPS FOR UTAH—CAMP RAWLINS ESTABLISHED—GOVERNOR SHAFFER FORBIDS THE MUSTERS OF THE MILITIA—HIS LAWLESS COURSE IN RELATION TO MILITARY APPOINTMENTS—CORRESPONDENCE BETWEEN GENERAL WELLS AND GOVERNOR SHAFFER—THE GOVERNOR'S LAWLESSNESS BEARS LEGITIMATE FRUIT—THE ENGBRECHT CASE—PROVO RAIDED FROM CAMP RAWLINS—GOVERNOR SHAFFER BLAMES GENERAL DE TROBRIAND—THE LATTER'S CAUSTIC REPLY—MAJOR OFFLEY'S ATTEMPT TO ASSASSINATE EDITOR SLOAN—THE FIRST MAIL ROBBERY IN UTAH—GENERAL SHERMAN AT THE MORMON CAPITAL—DEATH OF GOVERNOR SHAFFER.

 OF THE Federal officials who came to Utah to carry out the policy of the Grant-Colfax administration toward this Territory, there were none perhaps so zealous, so bent upon accomplishing the object for which they were sent, as Governor J. Wilson Shaffer and Chief Justice James B. McKean. These men were undoubtedly among the most determined foes that the people of Utah have ever had. We mean of course the Mormon people, they being, as seen, in the overwhelming majority, outnumbering at that time the non-Mormons about forty to one.*

That Governor Shaffer and Judge McKean were good and patriotic men, as good men and patriots go; warring in deadly earnest against Mormonism, which they believed to be the embodiment of all that was treasonable and vile, is unquestioned. No one doubts their sincerity, their patriotism, their earnestness in discharging what they deemed to be their duty. Nor have we ever heard impugned the

*The official census of 1870 gave Utah a population of 86,786, of which only two or three thousand were non-Mormons. Entire settlements, it is said, containing thousands of souls, mostly Mormons, were omitted by the census-takers.

moral rectitude of their lives. But that they came to Utah surcharged with prejudice against her people—all who did not see eye to eye with them—and with the full purpose of grinding to powder everything that opposed them in the fulfillment of the mission which they supposed was resting upon them—a mission to overthrow Mormonism—are facts just as patent, as the records of their own acts will show. It will also appear that in their zeal to accomplish their mission, which one of them—McKean—is reputed to have said was as high above his mere duty as a judge as heaven is above earth, they not only strained every energy of their souls, every function of their offices and every power of the law, but where the law fell short they eked it out with legislation of their own, usurping powers and functions that did not pertain to their offices, and by acting as arbitrary despots covered themselves and the cause that they represented with more or less reproach. These facts were apparent not only to the Mormons, but to many Gentiles as well. We speak more particularly of Judge McKean, whose career in Utah was much the longer.

The first of the twain to arrive in the Territory was Governor Shaffer, who reached Salt Lake City in the latter part of March, 1870, having been appointed to office about the 1st of February. At the time of his appointment he was a resident of Freeport, Illinois; but he was a native of Union County, Pennsylvania, where he was born on the 5th of July, 1827. He had lived in Illinois for over twenty years, which may or may not account for some of the bitterness manifested by him toward the Mormon people, a portion of whose tragic history is so inseparably interwoven with the annals of that State. He served his country with courage and fidelity during the Civil War, being for the greater part of the time General Butler's chief of staff, at New Orleans and other places. He is said to have owed his selection as Governor of Utah to Secretary of War, John A. Rawlins. That official, having entered thoroughly into the spirit and policy of his compeers in the Administration relative to the reconstruction of the Mormon commonwealth, and deeming Shaffer, both

from his character and his experience in the South, a most proper person to cope with the Utah situation, just prior to his death requested President Grant to appoint his friend to the executive chair of this Territory. Shaffer at this time, though only in his forty-third year, was an invalid, dying of consumption, superinduced, it was believed, by his excessive labors and the hardships and exposures incident to his war experience. In fact, as he well knew, he had but a few months to live. He was a man of iron will, however, forceful, energetic, patriotic, and more than willing to give those last months of his life to the service of his country in subduing Mormondom. He seems to have regarded Utah as an unreconstructed rebel State, in need of the same kind of treatment as that meted out to the trampled and humiliated South. His mind, in fact, had been poisoned against the Mormon people before he had set foot within the Territory. "Never after me, by G—d," he is said to have exclaimed soon after receiving his appointment, "shall it be said that Brigham Young is Governor of Utah." Hastening to Washington from his home in Illinois, he sought out the President, learned from him the fact of his appointment at the suggestion of Secretary Rawlins, and received special instructions concerning the course that he was expected to pursue. During his stay at the capital, he did all in his power, in conjunction with the anti-Mormon lobby from this Territory, to procure the passage of the Cullom bill, which proposed to confer upon the Governor of Utah extraordinary powers; greater indeed than were ever conferred upon any American Governor. He was made to believe that this measure was just what was needful to aid him in his anti-Mormon operations. His services in this direction were very much appreciated by "the ring," to the furtherance of whose purposes—though with a higher motive than theirs—he lent himself.* • While the Cullom bill was still being considered by Congress Governor Shaffer set out for Salt Lake City.

* The anti-Mormons showed their appreciation of the services of Governor Shaffer, past and prospective, in aid of their cause, by the following resolution, adopted by the

A source of great annoyance and chagrin to the new Executive was the passage, about this time, by the Legislature, of the woman suffrage bill, and its approval, shortly before his arrival, by Secretary Mann, the Acting-Governor.* Shaffer regarded this as a move decidedly in the wrong direction, and it was doubtless due to his influence, and the efforts of the anti-Mormons, with whom from the first he was thoroughly *en rapport*, that the Secretary, who had committed the unpardonable offense of being fair and friendly with the Mormons, was soon afterward removed from office. Vernon H. Vaughn, of Alabama, was appointed in July of this year to succeed him, but was not installed until several weeks later.

Just prior to Secretary Mann's removal had been the displacement of Chief Justice Wilson, after an uneventful but generally acceptable career of less than two years in the Territory. He also had given offense to the anti-Mormons by refusing to be a tool of their clique, and acting independently of their influence. Judge

Corinne Convention of July, 1870; the occasion on which the Liberal Party was named and General Maxwell was first nominated for Delegate to Congress:

"*Resolved*, That in the selection of J. Wilson Shaffer as Governor of Utah, we recognize an appointment eminently fit and proper; that his past services in the cause of his country, and his firm, upright, wise and judicious course in this Territory since he came among us, commend him to the confidence of this convention and the people it represents, and we pledge ourselves to yield to him a continued, unwearied, and we trust efficient support in the performance of his high duties and the enforcement of the laws."

On motion of General P. E. Connor the resolution was adopted with three cheers for Governor Shaffer.

* The Ninetcenth Session of the Legislature, which passed the woman suffrage bill, was one of the most important that had convened. Among the other acts passed was one reducing the ad valorem tax from one-half of one per cent. to one-quarter of one per cent. for Territorial purposes. The counties were authorized to increase their tax from one-half to three-fourths of one per cent. under extraordinary circumstances. This provision left ample means for Territorial purposes and placed a greater proportion of the responsibility of repairing and building bridges and roads, which had before devolved upon the Territory, upon the counties. All the Territorial expenses of the District Courts were paid up to date and a contingent fund of four thousand dollars appropriated to be expended by the Territorial Marshal for the future expenses of those courts. A code of civil practice was also passed and the Territorial officers, Auditor, Treasurer, Probate Judges, Notaries Public, etc., were elected and commissioned by the Acting-Governor.

Wilson's friends at Washington, on enquiring the reason for his removal, were told that "General Shaffer's staff must be a unit." The vacancy thus created was filled by Judge McKean, whose appointment was dated June 17th, 1870, and who reached Salt Lake City about the end of August. Judge McKean's assignment to the Third Judicial District was the last official act of Secretary Mann, who, in the temporary absence of Governor Shaffer, issued as Acting-Governor on September 5th a proclamation to that effect. Mr. Mann, after retiring from office, formed a law partnership with Mr. W. Kirkpatrick, at Salt Lake City. Judge McKean, as we shall see, was just the man to suit the anti-Mormons, whose evil counsels, added to his own headstrong and arbitrary course, finally led him to his official ruin.

Governor Shaffer, before leaving Washington for the West, had probably been instructed by President Grant to confer in Utah with the Godbeite leaders, and not entirely with the radical element among the Gentiles. Similar instructions were given to Lieutenant-General Sheridan who, soon after Shaffer came, visited the Territory to survey the situation and to found a new military post.* What helps to render the same thing probable in the Governor's case was an interview that took place between him and Eli B. Kelsey, one of the pillars of the "New Movement" soon after Shaffer's arrival at the Utah capital. A portion of the conversation that occurred at their first meeting [is related by Mr. Tullidge in his History of Salt Lake City; that author claiming that this interview, like the one between Vice-President Colfax and Elder Stenhouse, greatly modified the belligerent spirit of "the war Governor" and caused him to take a more conservative view of Utah affairs. They were talking of the proposed crusade against polygamy, and Mr. Kelsey was explaining to the Governor the great suffering that would ensue if harsh measures were employed against the Mormons by the Government;

* General Sheridan had before been to Utah, as already noted, but his previous visits were more in the capacity of a sight-seer than of an official entrusted with an errand by the Government.

suffering not only to the men who had plural wives, and most of whom, with their wives, had entered into polygamic relations from sincere religious convictions, but to the women and children as well, the very class who, it was popularly but mistakenly supposed, would be benefitted by such a crusade.

"I will present my own family case, Governor," said Mr. Kelsey. "It is that of thousands of others in *their* family relations. My wives entered into marriage relations with me with the purest motives, and from a conscientious religious conviction. They have children by me. Before I will forsake my wives and bastardize my children, I will fight the United States down to my boots! Governor Shaffer put yourself in my place. What would you do?"

Shaffer paced his room thoughtfully for a few moments before replying. Indeed he scarcely knew how to answer the question. The brave and manly part of his nature finally triumphed over all considerations of prejudice or policy and he responded with much feeling: "By G—d, Mr. Kelsey, were I in your place I would do the same."

But while the Governor's ideas regarding polygamy, or rather the methods of dealing with it, may have partly re-adjusted themselves after the conversation in question, his attitude in relation to what he deemed the treasonable spirit of the Mormon leaders remained unchanged. That foe he was determined to fight; that fortress he was resolved to storm, and to make himself in fact, as well as in name, the Governor of Utah. That his predecessors in office had not been Governors *de facto*, but the tenants merely of a titular and salaried dignity, the power and authority of which had been usurped by Brigham Young, his board of local advisers, who surrounded him to the almost utter exclusion of any other visitors, had not found it very difficult to convince him. To depose the Mormon leader as "the actual Governor" and elevate himself to that position, was now the task to which he resolved to devote the brief remainder of his life. Let those who bear in mind the events of that period, and who blame Governor Shaffer for the method that he

employed to effect his purpose, remember with charity that he was a dying man; that the death of his wife, a short time before, had bowed him to the earth in sorrow, and that with wasted body and consequently a weakened mind he was beset and hedged about by men, shrewd, keen and calculating, who studiously misrepresented to him many things pertaining to the Territory and its history, so working upon his prejudices and patriotic sentiments as to practically make him their tool to subserve the selfish ends for which they were striving. He was reputedly a brave and earnest man, unselfish and generous in his impulses.*

It was in the spring of 1870 that General Sheridan came to Utah to establish the new military post that has been mentioned. The Administration had allowed itself to be persuaded that more troops were needed in Utah, and had resolved to send some additional companies to reinforce the command at Camp Douglas. It was not supposed that the slender force already here was in danger of attack and annihilation by the Mormon militia, and that a reinforcement was required on that score. For several years the most amicable relations had existed between the officers at the Fort and the leading Mormons, and the days of threatened and actual brawls between soldiers and civilians, so plentiful while General Connor had command of the hillside garrison, so far as this post was concerned had passed away. General De Trobriand, the commandant, was one of the most courteous and gentlemanly of officers, and was so far above

* President George A. Smith, in his historical pamphlet entitled "Answers to Questions," Second Edition, pages 62 and 63, says: "On the arrival of Governor Shaffer he was surrounded by hungry office seekers, disappointed by the failure of the Cullom bill, which would have placed nearly all the offices of the Territory within the gift of the Governor. Many of these 'birds of passage,' with and without carpet bags, had waited for his Excellency's arrival until their finances were exhausted. The Governor took quarters at the boarding-house of William H. McKay (whom he spoke of as an old friend), which became the head-quarters of the 'ring' during a great part of his administration; and this hungry horde surrounded his Excellency so continuously that it was weeks before an old citizen could get an audience, and even then it was at a place, in company, and under circumstances not calculated to give his Excellency any correct understanding or appreciation of the actual condition, wants and situation of the people he had come to govern."

the prejudices that actuated the fiery founder of the Fort and his associates, that he mingled freely with the Mormons and was on friendly and sociable terms with their leaders. Such conduct was not calculated to win him friends among their foes, and the "Jack-Mormonism" of General De Trobriand—one of the most independent of men—became a standing comment in anti-Mormon circles. It was still asserted by many, however, and evidently believed at Washington—notwithstanding Dr. Taggart's concession to the contrary before the Congressional committee having under consideration the Cullom bill—that soldiers were needed to protect the lives and property of Gentiles and apostates in this Territory; and besides this reason there was another deemed cogent by the Administration. It was this: that in view of the vigorous judicial proceedings about to be instituted against certain leading Mormons, it would be prudent to have a stronger military force upon the ground in order to convince the community that the Government was in earnest and would certainly carry out the policy that had been projected. Upon this point Mr. Stenhouse says: "Lieutenant-General Sheridan visited Utah and made himself acquainted with the actual situation of affairs. This distinguished soldier expressed the kindest sentiments for the people, admired the work they had accomplished, and hoped that nothing would occur to disturb them in the peaceful possession of their homes. His visit was at the finest season of the year, and he was truly charmed with the appearance of the city. Troops, whenever wanted, would, however, be forthcoming, not as a menace to the community, but that at their camp the oppressed might find beneath the Stars and Stripes the protection of the Government."

General Sheridan was accompanied, as upon his former visit, by several officers of his staff. As stated, he had been instructed by President Grant to counsel with the leaders of the "New Movement;" or, as he himself said: "to do nothing without consulting Mr. Godbe and his friends." Thus it was that at a meeting held in Governor Shaffer's rooms, soon after Sheridan's arrival, at which Utah affairs and the coming of the extra troops were discussed,

there were present not only the Governor, General Sheridan, and other Federal officials, with more than one representative of "the ring," but Mr. William S. Godbe and some of his associates. The anti-Mormons therefore, did not, upon this occasion, "have it all their own way:" though of course, while not impugning the fairness of Mr. Godbe, it was necessarily an incomplete presentment of the Mormon side of the question to which the General listened. It was decided to quarter the fresh troops near Provo, where a site for a military camp had been previously selected by General Augur, commander of the Department of the Platte. It was the positive and no doubt sincere assurance of General Sheridan,—voicing as he stated the views and wishes of President Grant,—that the soldiers already in the Territory and those about to be sent, should be used only as "a moral force," and not as a menace or an annoyance to the Mormon community.

Accordingly a military post—Camp Rawlins—so named in honor of the late Secretary of War—was established near the town of Provo. It was founded in the spring or summer of 1870, and was at first occupied by troops from Camp Douglas under Colonel Hough. A little later several companies from the East under Major Osborne were stationed there in their stead. We shall see anon the character of the "moral force" exerted by a portion of this command over the minds and bodies of the good people of "the Garden City." It is scarcely necessary to add, however, that the disgraceful raid made upon Provo by soldiers from Camp Rawlins several weeks after the new troops arrived, was no part of, but directly contrary to the purpose of General Sheridan. There were men in Utah at this time quite capable of inciting such an outrage, and of applauding it after it was committed, and whose main object in advocating the sending of these troops to the Territory was the hope that a collision between them and the citizens might occur, that something savoring of a real rebellion on the part of the Mormons might break out and martial law and a bloody settlement of the Utah question result. But the brave and gallant Sheridan was not a man of that kind.

Governor Shaffer had not been long in Utah when he was summoned back to his home in Illinois by the news of the serious illness of his wife. Mrs. Shaffer soon died, and His Excellency, already a physical wreck, but now more than ever prostrated, returned to the Territory to lay down his life in a last assault upon what he deemed the treasonable and law-defying spirit of Mormondom. He immediately set about the task of deposing Brigham Young from the position of "Governor *de facto* of Utah." The gubernatorial office, it will be remembered, included that of Commander-in-Chief of the "Nauvoo Legion"—the militia of the Territory—which the Gentiles declared had been for many years under the actual and absolute control of Brigham Young.* The following order from Lieutenant-General Wells to the militia of the Salt Lake and other military districts, gave Governor Shaffer the opportunity that he desired to assert his authority.

THE LIEUT.-GENERAL'S ORDER.

ADJUTANT-GENERAL'S OFFICE, U. T.,

SALT LAKE CITY, Aug. 16th, 1870.

General Orders, No. 1.

No. 1.—Major-General Robert T. Burton, commanding 1st Division Nauvoo Legion, Salt Lake Military District, will cause to be held a general muster, for three days, of all the forces within said district, for the purposes of drill, inspection and camp duty.

No. 2.—The commandants of Utah, Juab, Sanpete, Parowan, Richland, Tooele, Summit and Wasatch military districts, will cause to be held a similar muster, not to exceed three days, of the forces in their respective districts, to be held not later than the 1st day of November. Said commandants will cause suitable notice to be given of time and place of muster, and all persons liable to military duty to be enrolled and notified.

No. 3.—Bands of music may be organized, and musicians required to perform duty as per General order No. 2.

No. 4.—It is with deep regret that we announce to the Legion the death of Brigadier-General C. W. West, commandant of Weber military district.†

* General Babcock, in his report to the War Department, after visiting Utah in 1866—See chapter VII. of this volume—says: "Their militia, instead of being under the control of the Governor, is under the authority of the Church, or Brigham Young."

† General West died in San Francisco on the 9th of January, 1870. His decease was caused by consumption. The remains were brought home for burial, the interment, at Ogden, being preceded by appropriate and impressive ceremonies.

No. 5.—At the muster of the forces of Cache military district, there will be elected a brigadier-general, who will take command of said district.

No. 6.—District commandants will cause all vacancies to be filled in their respective districts; they will have a rigid inspection of arms and equipments, and make full and complete returns to this office, on or before the fiftenth day of November. They are also enjoined to enforce good order and sobriety, and to take every precaution to avert the occurrence of accident from any cause whatever during the muster.

By order of

LIEUT.-GEN. DANIEL H. WELLS,
Commanding Nauvoo Legion.

H. B. CLAWSON, Adjutant-General, U. T.

Some time prior to the issuance of this order Governor Shaffer had taken a trip to the West, and was probably still absent when the order was promulgated. We infer as much from the fact that fully a month elapsed before His Excellency issued his proclamation countermanding it. Whether or not General Wells, prior to his action, consulted with Acting-Governor Mann, we are unaware. As soon as Shaffer returned he published the following proclamations:

GOVERNOR SHAFFER'S PROCLAMATION.—1.

EXECUTIVE DEPARTMENT, SALT LAKE CITY, UTAH TERRITORY,
September 15th, 1870.

Know ye, that I, J. Wilson Shaffer, Governor of the Territory of Utah, and commander-in-chief of the militia of said Territory, by virtue of the power and authority in me vested by the laws of the United States, have this day, appointed and commissioned P. E. Connor, major-general of the militia of Utah Territory; and W. M. Johns, colonel and assistant adjutant-general of the militia of the Territory. Now, it is ordered that they be obeyed and respected accordingly.

Witness my hand and the great seal of said Territory, at Salt Lake City, this the
[SEAL.] 15th day of September, A. D., 1870.

J. W. SHAFFER,
Governor.

Attest: VERNON H. VAUGHN,
Secretary of Utah Territory.

Several other notable deaths occurred in Utah about this time. Apostle Ezra T. Benson expired at Ogden, September 3rd, 1869, Daniel Spencer, President of the Salt Lake Stake of Zion, December 8th, 1868, and Patriarch John Young, eldest brother of President Brigham Young, April 27th, 1870. The latter two died at Salt Lake City. On July 3rd of this year the vacancy in the Council of the Twelve resulting from the death of Elder Benson, was filled by the calling and ordination of Albert Carrington to the Apostleship.

GOVERNOR SHAFFER'S PROCLAMATION.—2.

EXECUTIVE DEPARTMENT, SALT LAKE CITY, UTAH TERRITORY,
September 15, 1870.

Know ye, that I, J. Wilson Shaffer, Governor of the Territory of Utah, and commander-in-chief of the military of the Territory of Utah, do hereby forbid and prohibit all musters, drills or gatherings of militia of the Territory of Utah, and all gatherings of any nature, kind or description of armed persons within the Territory of Utah, except by my orders, or by the orders of the United States Marshal, should he need a *posse committatus* to execute any order of the court, and not otherwise. And it is hereby further ordered that all arms or munitions of war belonging to either the United States or the Territory of Utah, within said Territory, now in the possession of the Utah Militia, be immediately delivered by the parties having the same in their possession to Col. Wm. M. Johns, assistant adjutant-general; and it is further ordered that, should the United States Marshal need a *posse committatus*, to enforce any order of the courts, or to preserve order, he is hereby authorized and empowered to make a requisition upon Major-General P. E. Connor for such *posse committatus* or armed force; and Major-General P. E. Connor is hereby authorized to order out the militia, or any part thereof, as of my order for said purposes and no other.

Witness my hand and the great seal of said Territory, at Salt Lake City, this
[SEAL.] the 15th day of September, 1870.

J. W. SHAFFER,
Governor.

Attest: VERNON H. VAUGHN,
Secretary of Utah Territory.

It will be observed that General Wells, in his order, announces that at the muster in the Cache Military District a Brigadier-General would be elected to take command there. This was according to law; it having been the custom with the militia, pursuant to acts passed by the Legislature and authorized by Congress, to elect their general officers. It will also be noticed that Governor Shaffer, in his first proclamation, appoints a Major-General and an Assistant Adjutant-General of the militia. This was contrary to law,—an extra-official action and a plain and palpable usurpation of authority. It was by such proceedings that the Governor, under the influence of a reckless and lawless ring of advisers—resolved to ruin if they could not rule the Territory—sought to instill into the minds of the “treasonable and law-defying Mormons” a respect for the statutes of their country.*

* In making these appointments Governor Shaffer acted precisely as if the Wade

Touching the second proclamation General Wells addressed to His Excellency this communication:

ADJT.-GENERAL'S OFFICE, U. T., SALT LAKE CITY,

October 20, 1870.

His Excellency J. W. Shaffer, Governor, and Commander-in-chief of the militia of Utah Territory,

SIR:—*Whereas*, a proclamation has been published, emanating from your Excellency, in which the holding of the regular musters in this Territory is prohibited, except by your order; and

Whereas, to stop the musters now, neither the terms of the proclamation, the laws of the Territory, nor the laws of Congress requiring reports of the force and condition of the militia of the Territory could be complied with; we, therefore, the undersigned, for and in behalf of the militia of said Territory, respectfully ask your Excellency to suspend the operation of said proclamation until the 20th day of November next, in order that we may be enabled to make full and complete returns of the militia as aforesaid.

DANIEL H. WELLS,

Lieut.-Gen. Com'g Militia, U. T.

H. B. CLAWSON, Adjt.-Gen. Militia, U. T.

and Cragin bills—which had been killed in Congress—had become law. Those bills contained the following sections:

“And be it enacted that there shall be in the militia of said Territory no officer of higher rank or grade than that of a major-general, and all officers civil and military, shall be selected, appointed and commissioned by the Governor; and every person who shall act or attempt to act as an officer, either civil or military, without being first commissioned by the Governor, and qualified by taking the proper oath, shall be guilty of misdemeanor, and upon conviction thereof, shall be subject to a fine not exceeding one thousand dollars, and imprisonment in the penitentiary not exceeding one year, or both such fine and imprisonment at the discretion of the court.

“And be it further enacted, that the militia of said Territory shall be organized and disciplined in such manner and at such times as the Governor of said Territory shall direct. And all the officers thereof shall be appointed and commissioned by the Governor. As commander-in-chief the Governor shall make rules and regulations for the enrolling and mustering of the militia, and he shall yearly, between the first and last days of October, report to the Secretary of War the number of men enrolled and their condition, the state of discipline, and the number and description of arms belonging to each company, division or organized body. Aliens shall not be enrolled and mustered into the militia.

“And be it further enacted, that all commissions and appointments civil and military heretofore made or issued, or which may be made or issued before the first day of January, 1867, (or in this case at the date of Governor Shaffer's proclamation) shall cease and determine on that day, and shall have no effect or validity thereafter.

The Governor thus responded :

EXECUTIVE DEPARTMENT, UTAH TERRITORY,

SALT LAKE CITY, October 27, 1870.

Daniel H. Wells, Esq.,

I have the honor to acknowledge the receipt of your communication of yesterday, in which you sign yourself "Lieutenant-General commanding the militia of Utah Territory." As the laws of the United States provide for but one Lieutenant-General, and as the incumbent of that office is the distinguished Philip H. Sheridan, I shall certainly be pardoned for recognizing no other.

In your communication you addressed me as "Commander-in-chief of the militia of Utah Territory." It is now twenty years since the act to organize this Territory was passed by the Congress of the United States, and, so far as I am informed, this is the first instance in which you, or any of your predecessors, in the pretended office which you assume to hold, have recognized the Governor of this Territory to be, as the Organic Act makes him, the Commander-in-chief, etc. My predecessors have been contemptuously ignored, or boldly defied. I congratulate you and the loyal people here, and elsewhere, on the significant change in your conduct.

You do me the honor to ask me to suspend the operation of my proclamation of September 15th, 1870, prohibiting all musters, drills, etc., etc. In other words, you ask me to recognize an unlawful military system, which was originally organized in Nauvoo, in the State of Illinois, and which has existed here without authority of the United States, and in defiance of the Federal officials.

You say: "Whereas, to stop the musters now, neither the terms of the proclamation, the laws of the Territory, nor the laws of Congress, etc., could be complied with." That is, my proclamation cannot be carried out, unless I let you violate it. Laws of the Territory which conflict with the laws of Congress, must fall to the ground unless I permit you to uphold them, and the laws of Congress cannot be complied with unless I will let you interpret and nullify them! To state the proposition is to answer it.

Mr. Wells, you know as well as I do, that the people of this Territory, most of whom were foreign-born, and are ill-acquainted with our institutions, have been taught to regard certain private citizens here as superior in authority not only to the Federal officials here, but also at Washington. Ever since my proclamation was issued, and on a public occasion, and in presence of many thousands of his followers, Brigham Young, who claims to be, and is called, "President," denounced the Federal officials of this Territory with bitter vehemence, and on a like occasion, about the same time, and in his (Young's) presence, one of his most conspicuous followers declared that Congress had no right whatever to pass an organic act for this Territory; that such was a relic of colonial barbarism, and that not one of the Federal officials had any right to come to, or remain in, this Territory.

Mr. Wells, you ask me to take a course which, in effect, would aid you and your turbulent associates to further convince your followers that you and your associates are more powerful than the Federal Government. I must decline.

To suspend the operation of my proclamation now, would be a greater dereliction of my duty than not to have issued it.

Without authority from me you issued an order in your assumed capacity of lieutenant-general, etc., calling out the military of the Territory to muster, and now you virtually ask me to ratify your act.

Sir, I will not do anything in satisfaction of your officious and unwarranted assumption.

By the provisions of the Organic Act, the Governor is made the commander-in-chief of the militia of the Territory, and, sir, so long as I continue to hold that office, a force so important as that of the militia shall not be wielded or controlled in disregard of my authority, which, by law, and by my obligation, it is my plain duty not only to assert, but, if possible, to maintain.

I hope the above is sufficiently explicit to be fully understood, and supersede the necessity of any further communications on the subject.

I have the honor to be, etc.

(Signed),

J. W. SHAFFER,

Governor and Commander-in-chief of Utah Territory.

Soon afterward the following open letter from General Wells to Governor Shaffer appeared in the columns of the *Deseret News* :

AN OPEN LETTER TO GOVERNOR SHAFFER.

Editor Deseret Evening News,

SIR:—I find myself under the necessity of requesting you to give space in your columns for the enclosed correspondence between myself and His Excellency, Governor Shaffer. His reply to my communication reached me yesterday, and it was only a few hours afterwards that I saw the entire correspondence in print. I might have felt some reluctance before this in giving our correspondence publicity, but now I have no alternative; my duty to the public, my regard for truth, and my own self-respect will not suffer me to remain silent; and although Governor Shaffer closes his communication by saying that he hopes what he has written will supersede the necessity of any further communication on this subject, I am constrained to write you this letter.

The first point which I will notice in his communication is the statement that,—

“As the laws of the United States provide for but one lieutenant-general, and as the incumbent of that office is the distinguished Philip H. Sheridan, I shall certainly be pardoned for recognizing no other.”

What inference does Governor Shaffer wish to draw from this? The same law of Congress which provides for *one* lieutenant-general provides for five major-generals (see Army Register for 1869; also General E. D. Townsend's report to General W. T. Sherman, commanding U. S. army for same year); must we therefore conclude there shall be no major-generals of militia in the States or Territories? The same law prescribes that there shall be eight brigadier-generals; are we to understand Governor Shaffer that the distinguished gentlemen who hold these positions in the regular army are the only ones in the States and Territories who are to be recognized as such? This being the inference to be drawn from his language, who shall presume to recognize any officers of militia in

any of the States and Territories as major-generals and brigadier-generals, when the law of Congress has already provided for but five of the former and eight of the latter ?

As His Excellency seems to take pleasure in referring to law, permit me also to direct his attention to the following :

Section 10 of an Act, approved July 28th, 1866, limits the number of officers and assistant adjutant-generals in their respective corps, prescribing their rank, pay and emoluments ; and section 6 of an Act approved March 3d, 1869, provides that, until otherwise directed by law, there shall be no new appointments in the Adjutant-General's department ; also an Act of June 15th, 1844, chapter 69, entitled "an Act to authorize the Legislatures of the several Territories to regulate the appointment of representatives and for other purposes," provides, in section 2, "that justices of the peace, and all general officers of militia in the Territories, shall be elected by the people, in such manner as the respective Legislatures thereof shall provide by law." Also see Brightly's Digest of the United States Laws, page 619, on organization of the militia, section 3.

These extracts are from laws of Congress—the laws for which His Excellency seems to have so much respect ; and if they are the only laws which obtain in this Territory, how can His Excellency reconcile with them his recent appointment by proclamation of a major-general, and an assistant adjutant-general for the militia of Utah ? And what about the five distinguished incumbents of the office of major-general already appointed under the law ? Or, does His Excellency imagine that it falls to his province to fill the vacancy created by the death of the lamented George H. Thomas.

The second point in Governor Shaffer's communication which I will notice, is wherein he states that—

"So far as I have been informed, this is the first instance in which you or any of your predecessors, in the pretended office which you assume to hold, ever recognized the Governor of this Territory to be as the organic act makes him to be, the commander-in-chief, etc., etc. My predecessors have been contemptuously ignored or boldly defied."

It is scarcely necessary for me to remark to any resident familiar with the history of this Territory that Governor Shaffer's information on this subject is very defective. That which he styles a "pretended office" I have held by the unanimous voice of the people of the Territory—the office having been created by Act of the Legislative Assembly of the Territory of Utah, approved by the Governor, February 5th, 1852, and not transported from Illinois, as stated by Governor Shaffer in another part of his letter. Even if it were as he states, can no good thing come out of Illinois ? Or is it such a crime to copy after anything emanating from that distinguished State ? I may here add, further, that I have never had any predecessor in the office since the organization of the Territory. As to this being the "first instance" in which I have recognized the Governor of this Territory as the commander-in-chief, Governor Shaffer is either strangely ignorant or wilfully misrepresents, for during the first eight years after the organization of the Territory, His Excellency Brigham Young was the Governor of the Territory, and I presume no one will dispute that he was recognized as the commander-in-chief. During the next four years, while His Excellency Alfred Cumming was the Governor of the Territory, and also during the administration of his successors up to the present time—with the exception of Governor Dawson, who only remained in the Territory about thirty days—I have abun-

dant documentary evidence to show that I recognized them as governors and commanders-in-chief of the militia of the Territory, and have in return been recognized by them as lieutenant-general commanding militia of Utah Territory. Besides being recognized as lieutenant-general by the predecessors of Governor Shaffer, I have in every instance been acknowledged as such in all official correspondence with officers of the regular army, superintendents of Indian affairs and other "Federal officials," both here and out of the Territory. His Excellency Governor Shaffer therefore stands distinguished as the first "Federal officer" who, in reply to a respectful communication, has so far forgotten what is due from a man holding his position, as to ignore the common courtesies always extended between gentlemen.

Before ending my reference to this point, permit me, if it does not trespass too much on your space, to give you copies of one or two communications which I have received from predecessors of Governor Shaffer :

EXECUTIVE DEPARTMENT, GREAT SALT LAKE CITY,

June 11th, 1862.

To Gen. D. H. Wells, commanding militia of Utah Territory,

SIR:—A requisition has been made upon me this day by Henry W. Lawrence, Esq., Territorial Marshal for the Territory of Utah, through his deputies, R. T. Burton, Esq., and Theodore McKean, Esq., for a military force to act as a *posse committatus* in the service of certain writs issued from the Third Judicial District Court of said Territory, for the arrest of Joseph Morris and others, residing in the northern part of Davis County, in said district.

It appears that said Joseph Morris, and his associates, have organized themselves into an armed force to resist the execution of said writs, and are setting at defiance the law and its officers.

I therefore require you to furnish the said Henry W. Lawrence, Esq., or his deputies aforesaid, a sufficient military force for the arrest of the offenders, the vindication of justice, and the enforcement of the law.

FRANK FULLER,

Acting-Governor and Commander-in-chief.

EXECUTIVE DEPARTMENT, GREAT SALT LAKE CITY,

November 26th, 1862.

Lieut.-Gen. D. H. Wells, Commanding Nauvoo Legion,

SIR:—I herewith enclose a communication directed to the Governor of this Territory, from the War Department at Washington, in relation to arms, etc., furnished by the several States since the 4th of March, 1861. If you have any information on the subject applicable to this Territory, I will be glad if you will report the same to me immediately.

I remain, respectfully yours, etc.,

S. S. HARDING,

Governor and Commander-in-Chief of the Territory of Utah.

P. S.—You will please return the communication from the War Department with your report.

As to Governor Shaffer's next paragraph I fail to see the point as stated. As has been the usage in the Territory for years past, and in accordance with the laws thereof orders were issued for the holding of the regular fall muster of the military of the Territory in their respective districts. These orders were dated August 16th, 1870. Some thirty days after, Governor Shaffer issued his proclamation prohibiting the holding of musters, drills, etc. In my communication to him, I simply asked him to suspend the operation of that proclamation until the 20th of November, that the fall musters might be completed—they having already been held in some of the districts—in order that I might comply with the request of the department made through the Adjt.-General's office, for Washington City, asking for the annual return of the militia of Utah Territory, in accordance with the provisions of the Act of Congress (Sec. 1.), approved March 20th, 1803. How this can be construed into an attempt to "nullify" the laws of Congress escapes my penetration, but, on the contrary, it appears to me that the proclamation of Governor Shaffer is calculated to produce that result. As to there being any conflict between the laws of the Territory and the laws of Congress, that is mere assertion, incapable of proof.

As to his allusion respecting what has been said at public meetings, I have to say that public officers, "Federal officials" included, are supposed to be public property, so far as their official acts are concerned, and subject to the scrutiny of the people. Every man under our Government has the right to free speech, and to express his opinions concerning the acts of public officers—a right, moreover, which is generally indulged in by all parties. I am not aware that President Brigham Young has "denounced the Federal officials of this Territory with bitter vehemence," or that if he has, I am responsible therefor, or that I should be held responsible for the opinion of any other gentleman in regard to the power of Congress to organize a Territorial government.

I am of the opinion that the people of the Territory, according to the Constitution, have the right to bear arms—that the Legislative Assembly had the right to organize the militia—that Congress had the right to declare that the general officers should be elected by the people in such a manner as the respective legislatures of the States and Territories may provide by law; that the Governors of the States and Territories are the commanders-in-chief of the militia, the same as the President of the United States, is commander-in-chief of the armies and navies of the United States with generals and admirals under him commanding; that the military organization of our Territory follows that of the Federal Government more closely, perhaps, than that of any other Territory or State in the Union; and that governors and commanders-in-chief are as much creatures of law as any other officers, and while they exercise a higher jurisdiction, they are amenable to law as the humblest officer or citizen.

I will not take up your valuable space, neither will I condescend to make reference to the concluding paragraphs of his letter. My only object has been to vindicate the Legislative Assembly, myself and the people, as to our rights under the law, so unwarrantably assailed in the communication of Governor Shaffer.

Respectfully,

DANIEL H. WELLS.

Subsequently, General Wells directed that the fall musters in the various military districts be postponed until further orders.

Example is contagious; particularly the example of lawlessness. The Governor of the Territory having ignored the law in the manner so plainly shon, what more natural than that the lawless element throughout the community should take license from his course and manifest their contempt for order and authority. Already was the law-defying spirit abroad. Certain non-Mormon liquor dealers, deeming themselves secure from interference by the local authorities, under the sheltering ægis of Federal officials and their influence, had violated the ordinances of Salt Lake City by selling their wares without obtaining a license from the municipal government. Their persistent refusal to honor the law had finally led to the abatement by the police of the liquor establishment of Paul Englebrecht & Co., and a suit alleging unlawful, willful and malicious destruction of property, brought by them against the Marshal, the police and the Alderman who issued the order of abatement, was now pending in the court of the Third Judicial District, presided over by Chief Justice McKean. The abatement of the Englebrecht establishment occurred on the 27th of August, a few weeks prior to the Governor's action in relation to the militia. But the spirit of contempt for all Mormon authority, civil, military or ecclesiastical, though manifested before, had more than ever prevailed in certain circles from the moment of His Excellency's arrival in Utah, and there is little doubt that the liquor dealers in question were encouraged thereby to commit their infraction of the city ordinances. The prevalent feeling among the radical Gentiles was that the Mormons had held the reins of government long enough; that a revolution was about to occur which would render the anti-Mormons paramount, and that the local laws and ordinances, rules and regulations, even if honored before, were no longer entitled to respect. Governor Shaffer's high-handed action in appointing over the militia a Major-General, an office which the law made elective, to say nothing of selecting General Connor as the incumbent—probably the most

obnoxious choice to the Mormon soldiery that could possibly have been made—doubtless increased this supercilious and lawless feeling and added fuel to the flame.

Just one week after the issuance of the Governor's proclamation disarming and virtually disbanding the militia, the following startling telegram came over the wires from Provo to Salt Lake City:

PROVO, UTAH, September 23rd, 1870.

A company of about forty United States troops from Camp Rawlins made a raid on our city last night between twelve and two o'clock; and before the police could rally and check their progress, they broke into the residence of Alderman William Miller, firing several shots into his bedroom, smashed in doors and windows and took him prisoner and held him about an hour. Thence passing up Center Street, they stove in the doors and the windows of the Co-operative Boot and Shoe Shop, and tore down the sign and stoned the doors of the Co-operative Store. They next surrounded the residence of Councillor A. F. McDonald, who was from home, and completely demolished every outside door and window on the first floor, and sacked the house, scattering the substance over the yards and sidewalk. Alderman E. F. Sheets' residence shared nearly the same fate. Their progress was here partially interrupted—they however proceeded to the Meeting House, broke in the shutters of one window and attempted to fire the building.

The raiders were armed with U. S. needle guns, with bayonets and revolvers, and during their career they captured several citizens, parading them through the streets, some of whom were severely beaten and bayoneted before they could make their escape.

A. O. Smoot.

This announcement, which appeared in the columns of the *Deseret News*, was received by the citizens of Salt Lake and the Territory generally with sentiments of mingled surprise and indignation.

Further particulars were soon obtained, and the public anger and astonishment increased correspondingly. A second telegram from Mayor Smoot ran as follows:

Provo, September 23rd, 3 p. m.

There was no apparent cause for the outrage, except that some soldiers had a party at the Bachman House, kept by J. M. Cunningham, where they got whisky and beer and then made a raid through the town. They were quelled by the assembling of the citizens and the firing of a few shots. We have had an interview with Major Osborne, the commander of the post, who seems to regret the affair very much.

The facts relating to the event, as mostly gleaned from the depositions of persons who were eye-witnesses to, and some of them sufferers from the raid, are as follows:

Camp Rawlins was situated about three miles north-west of Provo, between "the bench" and Utah Lake, and was practically within the outskirts of the settlement. Since the founding of the post, trade had opened up between it and the town, and it was no uncommon thing for fruit and vegetable vendors and store-keepers to be seen in camp, and for parties of the "boys in blue," unarmed and off duty, to stroll leisurely through the quiet streets of the rural city, molesting no one and being themselves unmolested. Some of them, as they afterwards stated, had "tried to be sociable," and associate with the Mormon girls; a desire which, however natural on their part, was quite at variance with the wishes of most of the young ladies in question and with the desires of their parents and guardians. It is more than probable, also, that what the soldiers alleged additionally upon this point is true, to wit: that "the Bishops and old heads" had counseled the young folks not to mingle indiscriminately with the men from camp. The Mormon leaders had always advised the youth among their people to hold themselves aloof from strangers of whose characters and intentions they knew nothing, and had admonished them to be cautious and circumspect in their associations with such persons. The event in this instance certainly justified in every way the giving and heeding of such sensible advice.

A few days before the riot briefly described in Mayor Smoot's telegrams, a committee of soldiers from Camp Rawlins had arranged with Mr. John M. Cunningham, deputy U. S. Assessor for Utah County, who kept a hotel at Provo, to provide thirty suppers for as many persons who were to attend a dancing party which they designed giving in town. The spokesman of this committee was one Jack Minkey, a drummer at camp. They endeavored to hire Cluff's Hall for their party, but did not succeed, and were also denied the use of the Bullock building. They then applied through Mr. Cunningham for a hall owned by Alderman Miller, but that, too, was refused them. Finally they gave up the quest for a dancing hall, but allowed the order for the suppers to stand. The refusal of the

several halls was the immediate provocation for the raid that occurred a few nights later. A day or two previously threats were made by some of the soldiers and overheard by peddlers and other visitors at the post, that the soldiers were "coming down to run the town," in revenge for the "bursting up" of their party by the Mormons. These threats, though thought but little of at the time, proved to have been uttered in earnest and were pretty thoroughly fulfilled.

On the evening of September 22nd a company of fifteen or twenty soldiers hired a civilian named Alma Brown to convey them in his wagon from Camp Rawlins to Cunningham's hotel. Some of them were about to put their guns in the wagon, when Brown demurred, refusing to carry them if they took their firearms. Whereupon they disarmed themselves, or appeared to do so, though they wore overcoats and may have concealed weapons underneath them. At the same time armed parties left the Camp afoot, and trudged toward the settlement; the sentinels whom they passed offering no remonstrance or objection. This was after the evening tattoo. The first party of soldiers reached Cunningham's place at about seven p. m.; another party came at eight o'clock and still another at nine. Many of these had guns with bayonets. They were headed by a man named Haws. Some of them were heard to remark that they had grudges against Bishop Miller and Bishop Sheets and would like to "string" the former "through the town." Two wagon loads of beer soon arrived—said to have been sent from Salt Lake by the recently abated Englebrecht establishment—and there was also a keg of whisky on the scene. While supper was being prepared some singing and dancing were indulged in and then the company, numbering thirty or forty persons, only six of whom were ladies, sat down to the tables.* It was now about eleven o'clock. During the progress of the feast several shots were fired outside, and a scene of excitement ensued. The women screamed

* It is said that the soldiers were angry because so many of the ladies who had been invited remained away.

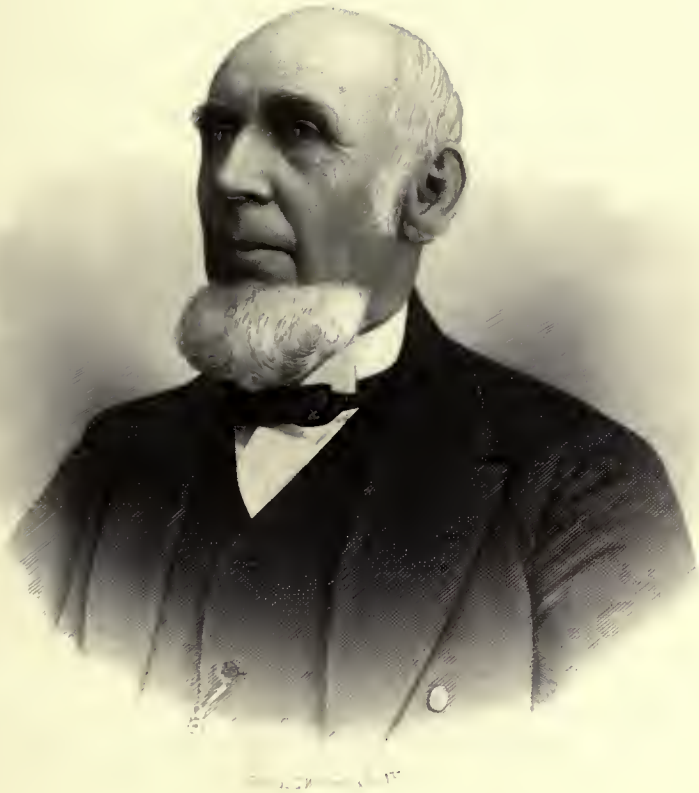
and the men arose and rushed up-stairs for their firearms. At this moment the man Haws came in from the street, complaining that his shoulder was broken, and stating that he had fired four shots at a man who had struck him, but did not know whether any of them had taken effect. His comrades said that if they caught his assailant—who was probably a mythical person, and Haws the giver of a signal previously agreed upon—they would hang him to a telegraph pole. The soldiers now sallied forth and proceeded to make good their threat to “run the town.” “Get out your guns,” said the officer in command—there were three or four serjeants and two or three corporals in the party—“and we’ll clean out the Mormon sons of b—s.”

Some of them went to the home of Alderman William Miller—who was no other than our old Nauvoo friend, surnamed “Bogus Brigham”—and began hammering upon his front door. They then fired several shots into his bed-room, barely missing his head, at the same time shouting and heaping abuse upon the startled inmates of the dwelling. The women were terror-stricken. Escaping through the windows at the rear, while the mob was in front of the house, they took refuge in the adjoining cornfield, which had lately been irrigated. Mrs Jane Miller, who was an invalid, was so prostrated by the shock and so affected by exposure in the damp fields that she never recovered, but a few weeks later died. Bishop Miller, having heard the beginning of the riot at the Cunningham place, had arisen and was partly dressed when the soldiers began thundering at his door. Before he could descend the stairs, some of the rioters went around to the east side of the house and smashed in one of the windows. He ran down stairs and had just reached the lower floor when his door was broken in. “What’s wanted?” he asked. “You, G—d d—n you,” was the reply, and forthwith the Bishop, after being permitted to put on his boots, was taken prisoner and marched through the streets surrounded by armed ruffians who, pointing their revolvers at him and prodding him with their bayonets, berated and abused him at every step, even threatening to take his life. They

told him they intended to destroy his building. "What have you got against me?" he asked, endeavoring to reason with his captors. "You agreed to rent us your hall for a party," was the answer. "I did not," said the Bishop. "Cunningham says you did," they retorted. "Well, go with me to Cunningham and prove it," said the prisoner. The mob assented, and to Cunningham they went accordingly. That gentleman denied ever making such a statement, whereupon they accused him of lying and threatened him with violence. Bishop Miller was now exonerated and released, and an officer who seemed to be the leader of the party who had assaulted his premises, apologized to him for their conduct, and promised that if he would send to the post office his bill for damages, addressed to J. Dillom, he would see that it was paid. He then advised the Bishop to go home and said that he would not be molested any more.

Meantime other bands of soldiers were committing similar outrages at various points. In the absence of Councillor McDonald, his house, as stated by Mayor Smoot, was literally sacked so far as the first floor was concerned; every door and window being broken and his furniture and effects scattered in the streets. The women and children of the household cowered in abject terror in the up-stair apartments, while pandemonium reigned and ruin worked below. Alderman Sheets' residence was almost as badly treated, and other buildings, public and private, were assaulted and injured. Their grudge against Councillor McDonald was that, having liquor upon his premises, which he disposed of to the citizens for medicinal purposes, he had repeatedly refused to sell it to the soldiers. Mr. Sheets' offense seems to have consisted in the fact that he was a Mormon Bishop. The soldiers also threatened to attack the residences of Mayor Smoot and President Young, but the citizens, by this time thoroughly aroused, were beginning to gather, and the rioters, hearing some shots fired that were not their own, concluded to retire and return to camp.

Several men besides Bishop Miller were captured by the mob



E. F. Sheets

and held as prisoners during the progress of the raid. One of these, Thomas Fuller, who was camping with two companions in the Tithing Yard—they being engaged in repairing the Deseret Telegraph Line—was brutally beaten by the soldiers while in their custody, the wounds upon his head, inflicted with bayonets, clubs and pistols, bleeding profusely. Others were also threatened and abused. As the rioters passed along the streets firing at the houses of the citizens and rudely arousing them from peaceful slumber, they shouted: "Come out, you G—d d—d Mountain Meadow Massacreers;" at the same time swearing that they would kill them and take their wives and daughters from them. They told their prisoners that the Mormons had run this Territory long enough; that they had not got volunteers to deal with now, but Uncle Sam's men, who were going to "run this town as they G—d d—d pleased," and indulged in other profane and indecent braggadocia.

To say that Provo was alarmed is but to mildly state the condition and feelings of the people. The women and children were terrified, and thinking the whole settlement was about to be attacked, ran out of doors without waiting to dress, and hid themselves in the wet gardens and corn-fields, where many of them, including the aged and sick, passed the remainder of the night. Others, too much frightened to flee, huddled in the cellars or garrets of their dwellings, while their husbands, sons and fathers, with pale but determined faces, grasping what weapons they could find, sauntered forth into the night prepared to mete out stern vengeance, or sell their lives dearly in defense of their homes and families, in case the raid continued. Mayor Smoot, who had been awakened by the noise and subsequently informed of the depredations that were being committed, left his family indoors,—among them an eleven-year old daughter who is now the author's wife, and upon whose memory the terrors of that night of alarm are indelibly stamped,—and went forth to rally his police and quell the raiders. The latter, however, by this time were retreating and were soon beyond the confines of the settlement, returning, after their bacchanalian revels

and brutal riot to camp. Such briefly are the facts in relation to the Provo raid.

As stated, the startling news telegraphed by Mayor Smoot to Salt Lake, and supplemented by the published depositions referred to, was received by the general public with feelings of surprise and indignation. "So this," said the Mormons—and the irony and invective were certainly pardonable—"is a sample of the moral force to be exerted over us by the troops which the Government, on the recommendation of a ring of contemptible conspirators, has seen fit to station near our settlements." At first it was thought that the military authorities, in conjunction with Governor Shaffer, might be responsible for the affair. Some even suspected that the Governor had directed the raid, and that his proclamation of a week before, disarming the militia, was but the prelude to this and other dastardly deeds of like character. Such a view, however—the fruit of the first angry feeling,—was soon discarded and more just and reasonable opinions began to prevail. That the rioters were merely a mob, crazed with drink or rage, and that their acts were not only unauthorized but unknown to the military authorities at Camp Douglas, was quickly conceded, even before further particulars of the outrage had been received. Still there were some things connected with it that reflected seriously upon the officers at Camp Rawlins and the character of the discipline maintained at that post. Said the *News*: "That such a body of men would have been allowed to leave their quarters, armed as they were, with their officers in ignorance of their intent, is not the least probable; and yet to believe that United States officers would permit a body of forty men to go under cover of midnight darkness and make a raid on the persons and property of sleeping citizens, is so little like gentlemen, and so much like highwaymen and murderers, that we are loth to believe such an occurrence could have taken place without their cognizance."

The persons held chiefly responsible by the Mormon public were the members of "the ring," through whose representations the Government had been induced to send to Utah the troops who had

committed the riot. Governor Shaffer was also blamed,—more, however, because he was believed to be the catspaw of the conspirators than from any permanent suspicion that he was directly responsible for the event at Provo. Nevertheless it was held that his lawless course in relation to the militia and his apparent contempt for Mormon officials and their authority had indirectly had its effect in inciting the outrage. He seems to have felt more or less keenly the censure laid upon him, and manifested some anxiety to shift the burden to other shoulders. With that same reckless disregard of facts and the proprieties which characterized his correspondence to General Wells, he, or his advisers, now addressed to General De Trobriand, the commander at Camp Douglas, the following letter, a copy of which was furnished to the *Deseret News* by Mr. George A. Black, the Governor's private secretary, before the officer addressed had received the original :

EXECUTIVE OFFICE,

SALT LAKE CITY, UTAH TERRITORY,

Sept. 27th, 1870.

GENERAL:—Several days have now elapsed since the outrages perpetrated by a portion of your soldiers at Provo, and as far as I can learn no action has been taken on the part of the military to bring them to punishment, nor has there been any official report made public by the officer in command, stating all the facts.

I have waited thus long in the earnest hope that you would have taken such action in the premises as would convince the citizens that the soldiery was stationed at Provo to protect and not destroy. Hearing nothing like an explanation from the commanding officer there, and feeling that the outrage is one that should be followed by swift and certain punishment, I now, as Governor of the Territory, sworn to protect all the citizens, ask of you to deliver up to the civil authorities every individual, private or non-commissioned officer, engaged in the outrage, that I may see that they are properly tried, and if convicted, punished. I insist on this for the reason that much feeling exists in this community against the Federal officers and soldiers, growing out of this transaction, and that feeling is extended to all the Federal officers.

As Governor of the Territory I am sworn to execute the laws, which, if possible, I propose to do, and in so doing I shall have as high a regard for the property and persons of Mormons as of any other class or denomination. In short, I know no distinction and shall know none as between citizens of this Territory. All are entitled equally alike to whatever aid, assistance or protection I can give them. In this case the perpetrators of the outrages are men employed by the Government, and paid for their services, to be the special guardians of the rights and liberties of those among whom they are stationed,

coming here at the expense of the Government to aid and assist the civil authorities in securing to all men their rights, in place of which they have taken it upon themselves to execute all manner of violence and mob law to satisfy their own individual and personal grievances. If the United States soldiery cannot fulfill the high object they were sent here for, then far better, for the sake of the credit of the nation and the American armies, we be let alone to ourselves.

Respectfully,

Your obedient servant,

(Signed),

J. W. SHAFFER,

Governor U. T.

At the time the Governor's letter was written, General De Trobriand was at Provo investigating the riot, in accordance with instructions that he had received from General Augur. Learning from the papers that Governor Shaffer had written him a letter, after perusing the same and immediately upon his return to Camp Douglas the commander indited the following caustic epistle to His Excellency and handed it in person to the editor of the *Deseret News*, for publication in that journal:

CAMP DOUGLAS, UTAH TERRITORY,

September 29th, 1870.

To his Excellency, J. W. Shaffer, Governor of Utah Territory,

SIR:—I was in Provo City, and had been there three days, when, yesterday evening, I was informed, for the first time, by public papers that during my absence I had been honored with a letter from you, the original of which was handed to me only this afternoon on my return here. This will explain the delay of my answer, which otherwise would have been immediate.

That the object of your letter is more with the public than with myself is sufficiently shown by the fact that it was published in the *Deseret Evening News*, even before the original had reached Camp Douglas; but as you thought fit to append it to my name you will allow me, in answer, to point out to you some of the mistakes, mis-statements, wrong insinuations and erroneous implications which it contains; and to furnish you some information, which, however old for everybody else, will, to all appearances, be new to your Excellency.

Your first mistake, Sir, is to have addressed your letter to me. Those who are behind the scenes and know something of the game will, without difficulty, see through it as I do; but all others will not understand how it is that you write to the Commander of Camp Douglas a letter exclusively in reference to matters pertaining to Camp Rawlins, for nearly everybody knows, although your Excellency seems to ignore it, that there is no organization of military districts in the Department of the Platte, that all posts are independent from each other, and that their respective commanders communicate direct with

the Department Headquarters. So your letter should have been addressed to the commanding officer at Fort Rawlins. But it may be that provided the document would produce the intended effect on the public, it was immaterial to you to whom it was addressed. Not so to me, however, and considering its import, I take the liberty respectfully to inform you that you have entered the wrong pew.

Your second mistake, Sir, is to base your communication on the supposition that because you did not hear about it—having evidently made no inquiry in the matter—no action has been taken on the part of the military to bring the perpetrators of the outrages at Provo to punishment. This is a gross error, as I will show you presently, by the most precise information.

Your third mistake, Sir, is to suppose that it is the duty of the officer in command at Camp Rawlins to make public his official report, stating all the facts. Any one familiar with military matters would know better, and in that respect, Sir, I take again the liberty to respectfully inform you that such reports must be sent first to superior headquarters and made public only by proper authority and not otherwise. I hope you will not find it strange if Major Osborne and I conform ourselves to the orders on the subject.

Your fourth mistake, Sir, is to say: "I have waited thus long, in the earnest hope that you would have taken such action as would convince the citizens that the soldiery was stationed at Provo to protect and not destroy." This, Sir, implies directly that I did *not* do it, and it is another gross error on your part, as I propose to show you presently that it did not take me five minutes to do my duty, while it took you five days to consider in which way most suitable to your purpose you could *appear* to do yours.

Your fifth mistake, Sir, is in the appreciation of our respective duties. In that respect I beg respectfully to inform you that it is *not* my duty, as you seem to believe it, to keep you posted about what occurs in your Territory, when you shut deliberately your door and your ears to any common information which could disturb your sickly slumbers or interfere with your little private schemes. Nor have I to communicate to you what I may do in the execution of superior orders or otherwise in my military capacity, without any initiative of enquiry on your part. And I respectfully suggest that whenever any occurrence renders a military interference necessary it is *your* duty to notify the nearest post commander, making upon him any requisition for troops that circumstances may require, and not wait passively at home, barricaded against any outside information as you did in the present case.

Your sixth mistake, Sir—but I suppose I can stop with the fifth one, not to make this letter too long; I will then pass to the informations.

The riot at Provo took place on the 23rd inst. between 12 and 2 o'clock a. m. The telegraphic dispatch of Mayor Smoot was received at Salt Lake City during the forenoon and was sent to me without delay. Fifteen or twenty minutes after receiving it I was in the telegraph office forwarding it to General Augur with this introductory remark: "The following telegram is just received from the Mayor of Provo City. As Camp Rawlins *is not under my command*, I can only forward it as received." The answer of General Augur came the following day, the 24th, ordering me to proceed to Provo, etc. It was brought to me at 8 o'clock in the evening, and on the following morning, the 25th, about 7 o'clock I was on my way to Provo, where I arrived in the afternoon. The same even-

ing before retiring, I had had a long conference with Major Osborne, and had begun to collect information from several citizens. On the 26th I spent the whole morning at Camp Rawlins and the whole afternoon with Mayor Smoot, Alderman Miller, Alderman Sheets, Mr. McDonald and other influential citizens, taking a minute memorandum of the damages in each house attacked by the mob, collecting information, etc., while a military clerk whom I had taken with me for that purpose, was transcribing all the evidence produced already at the investigation before the civil authorities. The whole day of the 27th was by me devoted to a concurrent investigation with the civil authorities, and I was so engaged at the very moment when your Excellency, at last aroused to the necessity of doing something after having "waited thus long in the earnest hope that I would have taken such action, etc.," concluded, "now as Governor of the Territory, sworn to protect all citizens," to ask me with great solemnity to do what?—just what had been already done four days before!!! *Nascitur ridiculus mus*, here is the ridiculous rat born from the child labor of your mountain!

I say, "what had been done already four days before," for in the early morning of the 23rd, but a few hours after the riot, one of the parties implicated was already in custody of the City Marshal and several others were prisoners in Camp, subject to any demand of the civil authority. Major Osborne that same day offered to turn over all of the prisoners to their custody. This offer was declined, and on the 24th, in the evening, the party in the hands of the City Marshal was by him returned to the military for safe keeping. The offer of Major Osborne was by me renewed on the 26th, with the same result. After all those transactions at Provo, you will acknowledge that your communication of the 27th was most decidedly behind time and behind truth.

Perhaps you would like to know the cause of this persistent refusal of the civil authorities at Provo to take charge of the prisoners. Two reasons were explained to me: the first one that there is no jail in the city; the second, that a legal decision of recent date having withdrawn the criminal cases from the jurisdiction of the Probate Court, the prisoners if taken in custody by the City Marshal, would soon be released on a writ of *habeas corpus*. The insistence of your Excellency to have the prisoners in the hands of the civil authorities at Provo could not be in prevision of such contingency. Oh! certainly not.

Now you may see how the matter stands: you ask me solemnly to deliver up the prisoners to the civil authorities. The civil authorities persistently decline to take charge of them. What can we do? Keep them, of course, and for that I have another reason still more conclusive, and that is, that an order to that effect has been received from my Department Commander.

In face of all these facts, it will be hard work for you to make anyone believe that *you* were the active man in the matter, and that *I* was the inert one. I know that you are not easily discouraged by difficulties, and that you would be much pleased to transfer to my shoulders, part, at least, of your baggage; but you will find me decidedly refractory to such a load as that.

I pass over the balance of your letter, which is especially intended for the public. Between actual facts and eloquent words the public will be the best judge. I come to the last sentence, in which you say, "If the United States soldiery cannot fulfill the high

object they were sent here for, then far better, for the sake of the credit of the nation and the American armies, we be let alone to ourselves."

If it was not too much of curiosity I would like to know if the real object of those who caused the "U. S. soldiery," as you say, to be sent to Provo, was not somewhat different from the high object so eloquently set forth by your Excellency. But as any question on this subject would remain unanswered, I will only refer to your last words, "we be let alone to ourselves." By all means, Sir, if you wish it. You know by this time that we of the Army are not of a meddling temper, we are no politicians; we don't belong to any ring; we have no interest in any clique, and we don't share in any spoils. Our personal ambition is generally limited to the honest and patriotic performance of our duties for our own satisfaction and the best interests of the Government. Wherever we are ordered to go, we go, but we have no voice in the matter, and if we are sent to Provo or anywhere else, it is not, as you are aware, on our application, but by the influential request of somebody else, generally in compliance with the demand of the Governor.

To be let alone!! Why, Sir, the military itself does not wish any better. If our soldiers were let alone instead of being poisoned physically with bad whisky and morally with bad influences, there would be no trouble with them.

That you be "let alone to yourselves"—*you*, meaning, of course, the people of this Territory, including its Governor, its churches, its militia, its legislature, its judiciary, its municipality, etc., etc.—would certainly be a great blessing to all, and I am happy to agree with you on that point. Then why not try it? and if the presence of the "U. S. soldiery" interferes in any way with the harmonious workings of your "happy family," a single order from Washington may settle the question. Rest assured, Sir, that in such a case we will all obey without hesitation or murmur, letting you alone to the full enjoyment of that popularity which so justly distinguishes your administration and surrounds your person in this Territory of Utah.

Very respectfully, Your obedient servant,

R. DE TROBRIAND, U. S. A,

Com'g Camp Douglas.

P. S.—As you were pleased to send your communication to the *Deseret Evening News* for publication, I hope you will not have any objection to ~~my~~ using the same privilege for this answer.

The General's letter was a veritable bombshell in the anti-Mormon camp. While scarcely counting upon the co-operation of the commander at the fort to help them in the furtherance of their schemes, "the ring" were hardly prepared for such a series of direct thrusts, as keen as if made with a Damascus blade in lieu of a "gray goose quill," with which the military Junius sought and found every flaw in their armor and at every return of the weapon "brought away blood." Said the *News*, commenting on the epistle: "They [the ring] have evidently mistaken the character of the General

commanding at Camp Douglas. * * * They have met with a rebuff they will not soon forget in the blunt, honest avowal that 'we of the army are not of a meddling temper, we are no politicians, we don't belong to any ring, we have no interest in any clique, and we don't share in any spoils.' We say they have met with a rebuff, for although the letter in Tuesday's *News* was ostensibly from His Excellency the Governor, it is really the emanation of the ring, to which we much fear he has lent himself, and the General's letter being in reply to that, it is, therefore, a rebuff to the entire party.

* * * This letter of General De Trobriand is, if we mistake not, the greatest surprise, coming as it does from a source entirely un-Mormon, that the anti-Mormon ring in Utah have had for some years. * * * In future the ring will do well not to count, untried, on aid and succor from all men who may happen to be officers of the Government; for it is gratifying to know that some among them possess the right to be considered men of honor and gentlemen. The relations between the people of the Territory and the military, for some years past, have been very amicable; and so long as gentlemen are in command, there is no reason whatever to fear anything else, notwithstanding the statement 'that much feeling exists in this community against the Federal officers and soldiers.'"

Naturally enough General De Trobriand was criticised and condemned by the anti-Mormon papers, in Utah and elsewhere, for the stand taken by him in his letter to Governor Shaffer. A Salt Lake correspondent of the *Chicago Tribune*, under the *nom de plume* of "Douglas"—who was no other than O. J. Hollister, Esq., U. S. Collector for Utah, and a relative by marriage of Vice-President Colfax—denounced the General in the columns of that paper for "taking up cudgels for the Mormons." Said the *Omaha Herald*: "This doubtless means that he has refused, for abundant reasons, to take up the cudgels against them, perceiving, doubtless, that they were sufficiently cudged already." In the same article the *Herald* said: "The General's principal offenses appear to be that Governor

Shaffer wrote him an insulting and unjust letter in regard to the Provo investigation; that the officer had never called on the Governor; that he had been the frequent guest of Brigham Young, and that he is fond of good dinners. * * * The fact undoubtedly is that General De Trobriand, being a Frenchman and a gentleman, has refused to engage in the raid which has been organized against the unoffending people of Utah. * * * His business was to discharge his simple duty as a soldier and that he has done this to the satisfaction of General Augur is proven by the fact that he has not been displaced.” *

The busy bees of journalism had scarcely quit buzzing over the subject of the Provo raid and the correspondence growing out of it between Utah's Governor and the commander at Camp Douglas when another incident occurred to stir a ripple on the river of local events and indicate still further the spirit of lawlessness that was prevalent. It was an attempt to assassinate E. L. Sloan, Esq., editor of the *Salt Lake Herald*. The assault occurred on the evening of Saturday, October 8th, in the *Herald* office on First South Street. The assailant was Major Offley, a deputy postmaster of Salt Lake City, an ex-agent of the Associated Press, and according to common rumor a United States deputy marshal. He was an active and prominent member of “the ring,” and had made himself notorious while acting in the capacity of agent for the Associated Press by the flagrant falsehoods that he sent over the wires to deceive the country in relation to affairs in Utah. One glaring misstatement charged to him was based upon a trifling incident that occurred at the time of General Augur's visit to Salt Lake in the summer of

* The General was displaced, however, before many months had passed, and his removal was due to the machinations of the all-powerful anti-Mormon ring. Judge McKean at Salt Lake, and Dr. Newman at Washington, were believed to have used their influence with President Grant against General De Trobriand and caused him to be transferred to another post. He was succeeded by General Henry A. Morrow, an equally fair and honorable gentleman and officer. General Morrow, then one of General De Trobriand's subordinates, conducted the court martial held at Camp Rawlins a few days after the Provo riot.

1868, when the mendacious press agent magnified the accidental intrusion of two drunken fellows upon the scene of a reception given in the General's honor into an attempt by the Mormons to insult him. General Augur himself contradicted this false statement, which was but one of many sent out by the Utah conspirators, who have generally had in the local agents of the Associated Press willing and pliant tools. The provocation of the assault committed by Major Offley upon Editor Sloan was an article in the *Herald* containing certain things which the Major claimed were derogatory to his character. Calling at the office of that journal on the evening in question, he asked to see Mr. Sloan. He was shown to the editorial room, which he entered and locked the door behind him. Confronting the editor he accused him of publishing the article, and told him that he must retract it. Mr. Sloan requested him to leave the office, but he refused to do so. The editor then attempted to open the door, but had only succeeded in unlocking it, when Offley seized him, and drawing a pistol presented the muzzle at his breast. Before he could cock the weapon, his intended victim had grasped it in such a manner as to prevent. At this critical moment Mr. John T. Caine, who was connected with the *Herald* in the capacity of managing editor, entered the office and Offley was disarmed and given into the custody of the police. After a night or two in jail, the prisoner, at the personal solicitation of U. S. Marshal Patrick, was released. Mr. Black, the Governor's private secretary, had previously endeavored—though not, it appears, at the instance of His Excellency—to have Offley liberated, but without success. The day after his release he was taken before the District Court, indicted, and placed under bonds of two thousand dollars to await his trial. The case was disposed of on the 26th of October, when Major Offley was convicted of assault with intent to kill and fined one hundred dollars. Judge McKean, who presided at the trial, in passing sentence dwelt severely upon the conduct of the prisoner and stated that had not Mr. Sloan earnestly appealed for leniency to be extended toward him, no consideration could have

saved him from the penitentiary. Nearly all of Offley's friends now deserted him, including most of those whose interests he had so faithfully subserved.

Another member of "the ring" became involved in serious trouble about this time. On the night of the 24th of October the United States mail coach en route from Lincoln, Nevada, to Salt Lake City, was stopped by three men about one hundred miles south of the latter point, near Chicken Creek, in Juab County. They robbed the mail bags and passengers, one of whom was Judge McCurdy, and broke open and emptied Wells Fargo and Co's. treasure box. From the passengers were taken about fifteen hundred dollars in coin. The robbers then decamped. Judge Bigler, of the Juab county court, being informed of the affair, immediately started Sheriff Cazier and a *posse* on the trail of the thieves, who were captured next day and turned over to the United States Marshal. The principal of the three culprits was William H. McKay, keeper of the boarding house at which Governor Shaffer had stayed on first coming to the Territory. McKay's confederates in crime were a man named Heath, who escaped, and another, one St. Ledger, who was released. McKay was tried before Judge Strickland in the First District Court at Provo, found guilty, and sentenced to five years' imprisonment. Of course Governor Shaffer was not responsible for the misdeeds of such individuals, but the incident serves to show the character of some of the men who surrounded His Excellency in Utah, and influenced him against the Mormons. The Governor, like the ancient visitor to Jericho, simply "fell among thieves." This was the first mail coach robbery that ever occurred in the Territory. The stolen money was all recovered.

A pleasant episode in the midst of so many disagreeable happenings was the visit to Utah's capital, early in October, of General William T. Sherman, Commander-in-chief of the United States Army. The eminent soldier was returning from the West, after attending the festival of the California Pioneers and making a subsequent tour through Oregon. He was accompanied by his daughter,

Miss Sherman; also by Colonel Audenreid, his aide, and by General Schofield and aide, Captain Ennis. Colonel W. M. Wherry came with them as far east as Salt Lake. They arrived on Sunday the 9th. In the evening the distinguished party, who were staying at the Townsend House, received a serenade from the Camp Douglas band. Several hundred people assembled in the street before the hotel and General Sherman was urgently solicited to make a speech. He declined, however, and the crowd gradually dispersed. About 10 o'clock the members of the Parowan Choir, who had been attending the Mormon Conference which had just closed, appeared upon the scene and rendered several vocal selections. Again there were calls for "Sherman" and "a speech." The General, who was upon the balcony drinking in with delight the sweet strains that ascended from below, replied: "No, no; I would rather hear the girls sing." The choir then sang very effectively "Hard Times Come Again No More." This seemed to touch the heart of the veteran, who now came forward and in a few earnest words acknowledged the compliment paid him. He said he was not going to make a speech. He had heard that the singers were from Parowan. He did not know Parowan only by having seen it on the map. He was gratified to behold the beautiful homes which the people, while facing difficulties and trials of the severest kind, had built up in the desert, and his sincere wish was that they might live to enjoy them, and that to them "hard times" might "come again no more." Monday morning General Sherman attended a military review at Camp Douglas, and during the day himself and party were the guests of President Brigham Young and other prominent citizens. A day or two later the visitors resumed their journey eastward.

The next notable event in Utah was the death of Governor Shaffer. He expired at his residence in Salt Lake City at a quarter past 5 o'clock on the morning of Monday, October 31st, 1870. This was but four days after the date of his letter to General Wells, responding to the latter's first epistle to His Excellency, relative to the musters of the Territorial militia. The cause of his demise has already

been stated. Among those who were with him in his last hours, was his brother, Colonel William Shaffer. As soon as the fact of the Governor's death became known, flags were hung at half mast on all the principal buildings of the city, including those of Z. C. M. I., the *Deseret News* and the University. Funeral services, conducted by Reverend G. M. Pierce, were held at the executive residence on the afternoon of November 1st, after which the remains, escorted by the Masonic Fraternity, several companies of infantry and cavalry from Camp Douglas, and the Federal, Territorial and City officials, were conveyed to the Utah Central Railroad depot, where they were shipped to Freeport, Illinois, for interment, being escorted thither by a guard of Free Masons.*

The same afternoon a dispatch from Washington was received at Salt Lake, announcing that the President had appointed Vernon H. Vaughn, of Alabama, to be Governor of Utah, and George A. Black, of Utah, to be Secretary of the Territory. Mr. Vaughn had held the latter office under Governor Shaffer, and Mr. Black had been the late Executive's private secretary. This was the same Mr. Black who, as Acting-Governor, made himself notorious during the following summer by re-issuing Governor Shaffer's proclamation forbidding the Utah militia to bear arms, even in honor of the nation's birthday,—the ninety-fifth anniversary of American freedom from British despotism.

* The funeral procession from the executive residence to the railroad depot formed in the following order: Band of the 13th U. S. Infantry; three companies 13th U. S. Infantry, commanded by Brevet-Colonel A. L. Hough, U. S. A.; Masonic Fraternity, J. M. Orr, marshal; 2nd U. S. Cavalry, commanded by Major D. S. Gordon; Hearse, accompanied by pall bearers—General H. A. Morrow, Dr. A. Fowler, General P. E. Connor, R. H. Robertson, E. P. Volum, John Chislett, J. H. Wickizer and R. N. Baskin; Clergy; Family; Acting-Governor; Federal Officials; Judiciary; Members of the Bar; Territorial Officials; Municipal Officials; Religious societies; Citizens. The pageant was under the direction of Marshal M. E. Patrick, assisted by Colonel W. M. Johns, Major W. H. Bird and Anthony Godbe, Esq.

CHAPTER XIX.

1870-1871.

THE WOODEN GUN REBELLION—A PORTION OF THE UTAH MILITIA ATTEMPT TO TEST THE VITALITY OF GOVERNOR SHAFER'S PROHIBITORY PROCLAMATION—ARREST OF LIEUTENANT-COLONEL OTTINGER AND OTHER OFFICERS OF THE THIRD REGIMENT—THEIR DETENTION AT CAMP DOUGLAS—THE CHARGES AGAINST THEM IGNORED BY THE GRAND JURY—ANOTHER ACT OF DESPOTISM—ACTING-GOVERNOR BLACK FORBIDS THE MILITIA TO BEAR ARMS IN HONOR OF THE NATION'S BIRTHDAY—HE ORDERS GENERAL DE TROBRIAND TO FIRE UPON THE MILITIA IF THEY DISOBEY—THE GENERAL'S INDEPENDENT ATTITUDE: "MY TROOPS SHALL BE IN READINESS IF REQUIRED, BUT YOU, NOT I, MUST GIVE THE ORDER TO FIRE"—THE THREATENED COLLISION AVERTED—MORMON AND NON-MORMON CELEBRATIONS OF JULY 4th, 1871—THE AUGUST ELECTION—A FATAL RATIFICATION MEETING—THE LIBERAL COALITION PARTY DIES BY ITS OWN HAND.

WHILE yielding temporary compliance with the terms of Governor's Shaffer's proclamation forbidding all musters, drills and gatherings of the Utah militia without his orders, it was not the purpose of the military authorities of the Territory and the citizen soldiery which they commanded to relinquish, without first testing the vitality of the dead Governor's edict, their constitutional and time-honored right to bear arms according to the laws of their country. For eighteen years the militia organization, authorized by the Legislature, had been continuously maintained. During the greater portion of that period annual musters of the troops had been held and returns thereof made pursuant to an act of Congress approved March 2nd, 1803. It was for the purpose of permitting Adjutant-General Clawson to make his regular return to the War Department at Washington, as well as for the training of the troops, that General Wells had issued the order for the fall musters of 1870, which Governor Shaffer had so imperiously countermanded. His Excellency's proclamation not only prevented the fulfillment in this instance of the requirement of Congress, but actually precluded the

complete carrying out of his own behest relative to the delivery to Colonel Johns, his appointee as Assistant Adjutant-General, of the arms and munitions of war belonging to the United States or to Utah Territory then in the hands of the militia.

How General Wells requested Governor Shaffer to suspend the operation of his proclamation long enough to permit his own command and the law of Congress to be complied with, and how the Governor haughtily refused to grant the request, have already been shown. Never before had such tyranny and inconsistency been manifested by an incumbent of the gubernatorial chair. Governor Shaffer, as before stated, acted in the premises precisely as if the Wade and Cragin bills—measures so foreign to the genius of American institutions, and so redolent of Russian or Oriental despotism, that Congress had refused to pass them—were laws of the land, in full force in the commonwealth over which he seemingly imagined he reigned as satrap. His reckless assertion that had he granted the request of General Wells he would have recognized an “unlawful military system which was originally organized at Nauvoo, in the State of Illinois,” and which had “existed here without authority of the United States and in defiance of the Federal officials,” when it was well known that the “Nauvoo Legion,” both in Illinois and in Utah, was a lawful military system, authorized by the Legislature of each commonwealth, and that Congress had sanctioned the laws of this Territory providing for the organization and maintenance of its militia under that reminiscent title, not to mention his other misstatements, shows how thoroughly Governor Shaffer had placed himself in the hands of the mendacious clique with whom, from long practice in the art, nothing was quite so “easy as lying.”

We come now to the first attempt made by a portion of the Utah militia to test the validity of the Governor's despotic edicts—one of them directly contrary to law and both of them subversive of the rights and liberties of the citizens of this Territory.

The beginning of November was the time when the fall musters would have been held had it not been for the proclamation which

caused them, in some districts at least, to be abandoned. Before the end of that month an opportunity presented itself for a protest against the act of absolutism which the militia felt to be an unwarrantable invasion of their rights as American citizens. The band of the Third Regiment of infantry had obtained some new instruments from the East. This event was regarded by a portion of the regiment as a fit occasion for a jubilation and reunion. It would also test the disposition of the new occupant of the gubernatorial chair, and probably make known more definitely the attitude of the courts toward the policy inaugurated by Governor Shaffer. Without the issuance of any order by the Lieutenant-General or their commanding officer, certain officers in the regiment and over two hundred of the men assembled, on November 21st, at Salt Lake City, on the Twentieth Ward square, in the vicinity of which most of them resided. The regimental band was there and discoursed martial music, while the militiamen contributed their share of the program by holding a drill. Their evolutions were watched by about one hundred and fifty spectators, and tidings of the affair were borne to Secretary Black, who, in the absence from the Territory of Governor Vaughn, was acting in his stead. Mr. Black, who was completely under the influence of, and in fact identified with "the ring," was highly incensed at what he deemed an exhibition of contempt for the orders of the Executive. He affected to regard the movement as insurrectionary and an overt act of rebellion against governmental authority. Calling upon the United States Marshal, and accompanied by two of the latter's deputies, the irate Secretary hastened to the scene of the incident which had excited his anger while failing to arouse his patriotism. For a quarter of an hour he viewed the proceedings, and then departed. Thirty minutes later the drill closed and the militia quietly dispersed to their homes.

As had been anticipated, the matter did not end there. At the instance of Acting-Governor Black, warrants were issued by Judge Hawley for the arrest of the eight officers of the regiment who participated in the drill, on the charge of treason, in being engaged

in "rebellion or insurrection against the United States." During the afternoon five officers—Andrew Burt, Charles R. Savage, William G. Phillips, James Fennamore and Charles Livingstone—were arrested and gave bonds for their appearance next day, On the following morning Messrs. George M. Ottinger, Archibald Livingstone and John C. Graham were taken into custody. At the preliminary examination before Judge Hawley, in the afternoon, George R. Maxwell was appointed by the court to prosecute, and the following evidence was adduced :

R. Keys examined by Mr. Maxwell:—

Where do you live? In Salt Lake City. Where were you on the morning of the 21st of November? In this city at the court room. Were you at the Twentieth Ward Schoolhouse during the day? Yes, sir. What did you see there? I saw a company of men drilling there. How were they equipped, had they guns? Yes, sir. Can you identify any of them? Yes, sir, I can identify Mr. Burt, Mr. Ottinger, Mr. Phillips, the two Livingstones—Charles and Archibald—Mr. Savage, Mr. Graham and Mr. Fennamore.

Cross-examined by Judge Snow:—

What time were you there? Between eleven and twelve o'clock in the forenoon. You saw those men there? Yes, sir. You saw them drilling? Yes, sir. Had they any music? Yes, sir. Any uniform? Yes, sir. I believe all the officers were in uniform. Who were the officers? Mr. Ottinger was giving command when I was there. I don't know whether he was an officer or not. What others were there? Mr. Burt. Was Mr. Burt an officer? I don't know. Any others? Mr. Phillips. Do you know whether he was an officer? Don't know any more than the rest. Mr. Savage, the two Livingstones, Mr. Graham the same. Mr. Fennamore had a gun, and should judge he was a corporal from the number of stripes on his clothes. How long were you there? About ten minutes. Did you talk with any of those present? With Mr. Savage. Any other? No. Was there any boisterousness there? Not any in the least. What kind of music had they? Martial. Did you observe whether the uniform was new or old? It was a very nice uniform. I could not see whether it was new or old. Was there any drunkenness? No, sir. You did not see any liquor on the ground? No, sir. Do you know how long they kept it up? I was there ten minutes, and rode on a block or two beyond and as I came back they were just dismissing. You went up after court adjourned here? Yes, sir. You remained there ten minutes? Yes, sir. How long were you gone before you went back? It could not exceed ten minutes. You were not there over twenty minutes? No, sir. When they dismissed did they march off in different directions? Yes; one company marched off down Brigham Street, another west of the building. When you went there did you command them to dismiss? No, sir. Did you see any women and children there? Yes, sir, there were a good many looking on, both women and children. Did you see any women and children in the ranks? No,

sir. Were there not as many women and children as men there? Could not say. Did you see any flags there? Yes, sir. What kind of flags? My impression was that they were the "stars and stripes." Were they dressed in United States uniform? I don't know that I know the United States uniform. They had hats with plumes, swords, etc. Did you ever attend musters in the States? Yes, sir. Was this any different to them in any way? (Objected to by Maxwell). Judge Snow claimed to show its legitimate bearing, and that there was nothing done contrary to the laws of the United States. (Allowed to pass). In the States we are ordered out. I did not see anything different. Did you wear glasses on your face? I always wear them, and I believe I can discern a person with them as well as a person who does not wear them.

Re-examined by Mr. Maxwell:—

Describe the uniform of Mr. Ottinger, as to its marks and insignia? I was not near enough to recognize the shoulder strap. He had a blue coat, brass buttons, a black hat and a black plume. How many men were there in the ranks? (Question objected to, but allowed by the court) I guess there were a hundred. How many boys and women surrounding? Probably one hundred and fifty. How many women? I took but very little notice, there were a good many children. What was the conversation you had with Mr. Savage? As I came back I met Mr. Savage coming across. I spoke to him and said, "You have got through?" He said "Yes." I then discovered that the band was composed of boys, and said, "You have a young band?" He said, "Yes, that band, a year ago, could not play a note." There was a lot of boys with wooden guns, and he said they were going to have a drill. That was the substance of it.

George A. Black, examined by Mr. Maxwell:—

You are Secretary of this Territory? I am. You were present at the muster? Yes. What time was it? I judge it was about 10 o'clock. Will you state what you saw? I saw a number of men drilling. I should judge there were 300. They were armed and equipped with various kinds of guns, muskets and carbines. Do you know any of these men, can you recognize them? I can. Witness identified Mr. Phillips, Mr. Charles Livingstone, Mr. Ottinger, Captain Burt and Mr. Graham. What were they doing particularly? They were going through the regular military drill. Did you notice the uniform these men wore, if so describe the uniform of Mr. Ottinger? On his coat he had shoulder straps, a sword, a hat and a black feather in it.

Cross-examined by Judge Snow:—

Where do you reside? In Salt Lake City. How long have you been here? Seven months the 27th day of this month. You said you were up in the 20th Ward, what time did you go there? About 11 o'clock. Have you any means of knowing the precise time? I have not, it was after 10 and before 12 o'clock. How came you to go there? I heard there was a drill up there. Are you acquainted with military costumes in the States? Yes, sir. The uniform was alike, with the exception of the hat. I never saw a Colonel wear a hat like Mr. Ottinger wore. What is the difference in head-dress? They usually wear a cap. Do they wear a feather? I never saw one with a feather in it. Have you ever been in the army? Yes, sir. Did you ever see a military officer wear a hat? I never did. Did you ever see him on dress parade? Yes, sir.

What is the difference of dress parade and fatigue? When on dress parade they appear in full dress and when on fatigue they go around loosely. There were about 300 there? Yes, sir. How long did you remain there? Fifteen minutes at least. What did you do after the fifteen minutes expired? Turned round and came down town. Where were the men then? Still drilling. Did you see any of the men after? I did in the afternoon. You don't know what time they left? I do not. Nor how long they were there? No, sir. Did you see Mr. Keyes there? I did not. I saw him when I was coming back, when about half way between that place and the post office. Were you afoot? I was in a buggy, and Mr. Keyes was on horseback. Did you come tolerably fast? Not very, and he was riding on a slow lópe. Did you see any women and children there? I did. A goodly number? Probably fifteen or twenty. There were a good many children, I did not notice any women. Did you see anything disorderly there? No, sir. Any drinking? I did not. Did you hear any cursing? No, sir. All was order, quiet and peace? Yes, sir. Did you see any flag there? I did. I think it was the American flag. Don't you know that it was? I did not go up to examine it. I took it to be the American flag.

Cross-examined by Mr. Maxwell:—

What munitions of war did these men have? I noticed they had old muskets principally; some of them had carbines, and a number had cartridge boxes; the officers had swords.

On Wednesday, November 23rd, Judge Hawley rendered his decision, asserting that, from the testimony given, he thought the defendants had "probably committed a crime." They were therefore held to await the action of the Grand Jury. The bond of Messrs. Ottinger and Burt was placed at \$5,000 each, and that of the others at \$2,000. They declined to give bail, and were placed in charge of the military authorities at Camp Douglas, where they were kept ten days, pending proceedings under a writ of *habeas corpus*, before Judge Hawley, who was presiding temporarily over the court of the Third Judicial District. He decided that they were legally detained as prisoners. Upon this decision being made, the accused gave the required bonds and were liberated.

The treatment accorded them during their stay at Camp Douglas indicates the public sentiment at the time. Mormon and non-Mormon merchants furnished them with delicacies, in addition to the ample rations of food provided at the fort, and General Morrow, who was in command during the temporary absence of General De Trobriand, allowed them the full liberty of the camp, where they

were given every accommodation and comfort that the place afforded. When their final vindication came by the refusal of the Grand Jury to indict them on any charge, the ludicrous view of their prosecution rose uppermost in the public mind, and the incident became popularly known as "The Wooden Gun Rebellion." There was, however, a serious aspect to the affair, not only from the infringement of constitutional rights in the premises, committed by Federal officials, but from the fact that efforts were made to use the circumstance as proof that the Mormons were in a state of rebellion, and thus induce the general government to adopt forcible measures toward them. Failure in these efforts was wrought through the calmness and conservatism of the Mormon people and the outspoken utterances of non-Mormons not in sympathy with the clique that was endeavoring to gain advantages for itself by bringing trouble upon others.

The following summer witnessed a still more outrageous act of despotism toward the Utah militia. Vernon H. Vaughn had been superseded as Governor by George L. Woods, while George A. Black was retained as Territorial Secretary.* At its first meeting in June, 1871, the municipal council of Salt Lake City decided upon an elaborate celebration of Independence Day, and appointed a committee to carry out the patriotic purpose. The committee represented different classes of citizens irrespective of religious affiliations, and was composed of Theodore McKean, Alexander Majors, John R. Winder, Theodore F. Tracy, General D. E. Buell, Henry W. Naisbitt, George M. Ottinger and David McKenzie. Their policy was outlined in the announcement that "the celebration of our national birthday is an event in which all classes of citizens, irrespective of political opinion, can on one common platform participate with hearty good

* On January 12th, 1871, General Silas A. Strickland of Nebraska was nominated for Governor of Utah, but on the 23rd his name was withdrawn and that of George L. Woods, of Oregon, substituted. Governor Woods and Secretary Black were confirmed on the 2nd of February and on the 19th the new Governor reached Salt Lake City. He entered thoroughly into the spirit and purposes of "the ring" and was much disliked by the great majority of the people.

will, and unite harmoniously." A committee of non-Mormons was also selected by a number of citizens of that class, with the avowed purpose of holding a celebration apart from that which the City Council had projected.

On the 10th of June a portion of the committee appointed by the municipal authorities consulted with the non-Mormon committee, of which Governor Woods was chairman and George R. Maxwell secretary, in the hope that all would unite in one celebration. No arrangements were entered into, but the discussion was of such a nature that the non-Mormons adopted a resolution requesting the City Council to authorize its existing committee, or a new one which it might appoint, to meet a like committee chosen by that already appointed by the non-Mormons, with full power to concert and adopt means to secure a single and harmonious celebration of the Fourth of July, "irrespective of any and all action heretofore taken by either of the aforesaid committees." The City Council, however, did not perceive the propriety of dismissing its committee, already selected, or of interfering, by the issuance of new instructions, with the progress of the preparations. Hence, a resolution was passed, stating that ample provision had been made for a celebration in which all were invited to participate, and it was "deemed unnecessary and, under the circumstances, unjust, either to set aside the present committee, or otherwise to interrupt the advanced state of their labors, which might jeopardize the approaching celebration by the mass of the people."

This reply roused the ire of the non-Mormon committee and their supporters, and the city authorities were vehemently denounced in public speeches and through the newspaper organ of the Liberals. Appeals were made to the members of their party in other cities and to the miners throughout the Territory to come and join in a celebration "worthy of the occasion." That it would be anti-Mormon in its character was apparent from the averment in the call "that the Mormon City Council of this city, acting upon their old principle of participating in nothing unless they can be masters

and dictators of the whole affair, have declined the offer of compromise extended to them by the liberal citizens of this place to participate in a Fourth of July celebration."

Both committees put forth strenuous efforts to achieve success. The City Council committee made a request of General Wells for a detachment of the Territorial militia, with bands of music, to aid in the celebration, and in response thereto the martial and brass bands, one company of artillery with ordnance, one company of cavalry, and three companies of infantry, from the Salt Lake Military District, were ordered out. Governor Woods, chairman of the other committee, was absent in the East at this time, but Secretary Black, the acting-governor, was in full accord with his chief.* He therefore issued, on the last day of June, a proclamation countermanding the order of General Wells, and commanding "that all persons except United States troops desist from participating in or attempting to participate in any military drill, muster or parade, of any kind, at any place within said Territory, from and after this date, or until it shall be otherwise ordered and commanded by the Governor and commander-in-chief of the militia of the Territory of Utah."†

This act of petty tyranny—this flagitious assault upon the rights and privileges of American citizens in their celebration of the natal day of their country's independence, provoked intense indignation. It was indeed one of the vilest insults that could be offered to freemen. The patriot militia of 1775-83, by their heroic courage,

* It was currently reported that Governor Woods, as a paid agent of "the ring," was using his influence with the Administration to secure the retention in office of Judges McKean and Strickland, and was also engaged in furthering certain mining schemes. An Associated Press telegram, dated Boston, June 28th, said: "Governor Woods, of Utah Territory, arrived yesterday, and had an interview with the President. He states that there are no grounds for the charges against the United States Judges, McKean and Strickland, of Utah, now on file in the Attorney-General's office, but that they are made in the interest of Mormons, and of certain parties engaged in mining operations who cannot use these judges as they desire."

† Governor Woods returned to Utah in time to issue orders of a similar tenor regarding a supposed parade of militia at Ogden on July 24th—Pioneer Day.

devotion and self-sacrifice, gained for the nation the priceless boon of liberty and, leaving its people untrammelled by the chains of kingly despots, ushered into glorious being the greatest and freest government on earth; the patriot militia of 1871 were, in Utah, by the act of one whose official existence was due to the freedom which he so basely assailed, deprived of even the opportunity of publicly rejoicing, on the national holiday, in the independence which their forefathers won.

Notwithstanding the storm of indignation that swept through the hearts of the people, they observed the Acting-Governor's tyrannical decree. Their remedy was not in violence or insubordination. They realized that they must abide by lawful methods. The official who had insulted them well knew the vicious nature of his orders, and he fancied, perhaps hoped, that they would be treated with defiant contempt. At any rate he called upon the commander at Camp Douglas for the soldiers of the garrison to enforce his edict as Executive of the Territory. He had the cold-blooded audacity to direct that if the militia appeared in parade upon the Fourth of July they should be shot down by the regular troops. General De Trobriand, who had returned to the Territory, was an officer who knew his duty and would perform it unhesitatingly, but he would not go further and add a false step. As seen, he was not a member of "the ring," nor an admirer of their mischievous and unscrupulous methods. He informed the Acting-Governor that the division of the army under his command would be in readiness, and if occasion arose he would place them in line of battle up to the order to "Present arms!" But the command to "Fire!" he would not give. That was entirely within the discretion of him who exercised the powers of Governor and had called for the troops to act as his *posse comitatus*.

When Black discovered that he could not shift the burden of the deed contemplated by himself and his associates of "the ring" from his own shoulders to those of the military commander, his heart failed him. He was willing that the murderous desire should

be executed by others, but when he learned that he alone must bear the responsibility, he weakened and shrank from it. The consequence was that the regular troops did not appear in force in Salt Lake City upon that memorable Fourth of July. Numbers of them came as spectators of the celebration, but their presence in a less congenial capacity was not necessary. Acting-Governor Black had neither the opportunity nor the courage to accomplish the fell purpose of bringing about a collision between the United States regular army and the Utah militia.

The observance of the national holiday by the two parties was carried through to a finish. The celebration under the management of the committee appointed by the City Council was the most brilliant affair of its kind that had ever taken place in the inter-mountain region. It was participated in by many from outside of Salt Lake County, and in the imposing pageant was a liberal representation of Utah's manufacturing and industrial pursuits, business interests, schools, civic societies, etc. The companies of militia called out were in line, but were not under arms. When the procession had traversed its line of march, exercises were held in the great Tabernacle, where the vast audience of over ten thousand souls, their hearts swelling with enthusiastic patriotism, presented an animated and inspiring scene. The building was crowded to excess, and large numbers of people were unable to gain ingress. A grand rendition of "The Star Spangled Banner," by the combined musical societies and choirs of the city, was followed by prayer from the chaplain, Apostle Orson Pratt, who besought the Almighty that religious liberty and universal freedom might "continue to spread forth, until the whole of this vast continent, from the North Pole even to the uttermost extremity of South America, shall come under the dominion of freedom and under the rule of this great Republic." The reading of the Declaration of Independence by Colonel David McKenzie, a splendid oration by Hon. George Q. Cannon, orator of the day, and patriotic addresses by Hons. John T. Caine and Alexander Majors, were features of the occasion. Suitable musical selections

were liberally interspersed through the program, the regular order of which was varied from by the addition of a spirited speech, in response to numerous calls from the audience, by Hon. Thomas Fitch, who had two months previously become a resident of Salt Lake City. At sunrise, noon and sunset artillery salutes were fired, while a pyrotechnic display on Arsenal Hill in the evening closed the day's observance.

The non-Mormon celebration, though in some respects very creditable, was by comparison a small affair. The procession included several decorated vehicles representing mercantile interests, a number of carriages containing officials and citizens, and a few wagons loaded with ore and bullion. The exercises, which were held in the Liberal Institute, were enlivened by the excellent music of the Thirteenth Infantry Band, the veteran actor Mr. T. A. Lyne read the Declaration of Independence, General George R. Maxwell was orator of the day, and speeches were made by Amasa M. Lyman, Colonel Jocelyn, Wm. S. Godbe, Judge Toohy, E. L. T. Harrison and Major C. H. Hempstead. Most of the speakers were eloquent in their utterance of patriotic sentiments, but some were rancorously abusive of the Mormons. Notable in the latter respect was Judge Toohy, of Corinne, whose address was described by his party sympathizers at the time as a "malicious assault on Mormon Utah."

We shall now see how the spirit of anti-Mormonism that was fast becoming rampant in Utah acted as a boomerang to split the newly organized Liberal Party. As previously stated, a political coalition had been formed between the Gentiles proper, the seceders from the Mormon Church known as Godbeites, and apostate Mormons generally. As shown, it was the avowed purpose of the supporters of this combination to effect what they conceived to be a necessary reform in the politics of the Territory. With the policy which they had marked out, they hoped, by conservative and careful action, to not only enlist all outside the People's Party under their leadership, but to draw largely from the ranks of the supposed disaffected voters in that organization. There was to be an election in August, 1871, for

members of the Legislative Assembly, and while there was no likelihood that the coalition would win, its leaders saw before them such brilliant prospects that they anticipated polling a vote which would astonish their political opponents by its magnitude. With a promise of Mormons, non-Mormons, Federal officials and ex-Mormons engaged in a vigorous and earnest campaign, local politics began to look interesting. The Liberals were jubilant over the showing they expected to make on election day. The People's Party, however, looked down upon the coalition as an intumescence, wherein but little further pressure was needed to burst the bladder-like integument.

The contest at this election was practically limited to the legislative council district comprising the counties of Salt Lake, Tooele and Summit. On the ticket nominated by the Liberals were J. Robinson Walker, Samuel Kahn, Wells Spicer and C. C. Beckwith. The People's Party candidates were Wilford Woodruff, George Q. Cannon, Joseph A. Young and William Jennings. The Liberal ratification meeting, held on Saturday, July 22nd, in the Liberal Institute, was well attended, the audience including a number of Mormons; for it had been intimated that anti-Mormonism would be debarred and the olive branch of peace extended to all. The assembly was called to order by ex- U. S. Marshal, J. M. Orr. Governor Woods was chosen chairman, Colonel Warren vice-chairman and W. P. Appleby Secretary. The Governor expressed his wish to add, as an American citizen, to the prosperity of the Territory. He refrained, because of his official position, from taking part in the discussion of local politics, but introduced General Maxwell, who convulsed the meeting by a wildly rabid anti-Mormon harangue. His assertion that it was the Liberal Party, then about sixteen months old, which had brought "the supremacy of the law and the safety of life and property in Utah," and his attack upon the past management of political affairs in the Territory, were vehemently cheered by the members of the coalition; but when he began to heap abuse upon the domestic relations of the Mormon community, and consequently upon the family affairs of some of the Godbeites, who were still polygamists, the reception given to his ex-

pressions made him feel that he was committing some sort of blunder toward his own supporters. Maxwell was bold to recklessness, but the lack of sympathy in his nature produced a corresponding lack of consideration for the feelings of many who wished to befriend him. When he did realize his error, he sought to retrieve it, but his harsh intercalations were the reverse of apologetic, and instead of acting as an emollient, served to still further ruffle the feelings of Kelsey, Godbe, and other leaders of the coalition which his violent denunciations had disturbed.

Had there been no further exhibition of this nature at the meeting, the rent made by Maxwell in the party canvas might possibly have been repaired; but like the tiger that has once tasted blood, the anti-Mormon element in the combination thirsted for more, and called loudly for Judge Toohy. That individual came forward, and the tenor of references made by him to the people of Utah may be fairly judged by one of his opening sentences: "Here in Utah sensuality and crime have found a congenial home; here immorality has been lifted up where virtue ought to reign." The speech and other proceedings at the meeting are thus described by the Salt Lake *Herald*:

"Colonel Toohy as usual devoted his speech to a eulogy of the Catholic Church, without stating, however, whether he believed in the dogma of Papal infallibility. At this period in his diatribe, a gentleman with a small body but plentiful brains called the speaker to order, demanding that he should confine himself to a discussion of the principles of the party and not obtrude his religious views upon the audience. This called forth a storm of applause and hisses, which at once demonstrated the piebald character of the assemblage. Colonel Toohy proceeded but was again interrupted by Mr. Tullidge, when the latter gentleman was requested to 'dry up' until the former had concluded and then take the stand. The Colonel soon subsided, having evidently exhausted his vocabulary of vulgar epithets, and Tullidge, with fire gleaming in his eye, mounted the rostrum and 'spoke his mind' very plainly, perorating with the remark that he was as much opposed to the theocracy of Rome as

that of Salt Lake, and that he could not see difference enough to split between the Pope and Brigham Young. Cheers and hisses followed this utterance of Mr. Tullidge.

“Several gentlemen, some of whom were present, were vociferously called upon to take the stand, but none responded—except Judge Haydon, who did so to offer as an apology for not speaking that it was neither his fight nor his funeral—as each one was afraid of putting his foot in it. After repeated calls, Mr. Eli B. Kelsey appeared upon the platform, and then the fun which was fast when Tullidge collapsed became furious. He opened by remarking (alluding to the speeches of General Maxwell and Colonel Toohy) that he was insulted; that in identifying himself with the Liberal Party he did not suppose that he was enlisted in a crusade against the Mormon people; and that he was disgusted with the vulgar abuse heaped upon them that night. ⁵²⁵ He avowed himself a polygamist; said he would sacrifice his life rather than repudiate his wives and children, and hurled back to Colonel Toohy the epithet ‘hogs’ which the latter gentleman had applied to polygamists. The speech throughout was accompanied by volleys of cheers and hisses and calls for Toohy, and at one time these demonstrations were so obstreperous as to call for the interference of Governor Woods, who, in a few sensible remarks, succeeded in restoring order. Before the conclusion of Kelsey’s speech, the dismay which the outbreak of Tullidge had inaugurated on the countenances of the gentlemen on the stand, deepened to funeral sadness, and an earnest consultation among them resulted in a resolution to adjourn to avoid the danger of further apostasy; and so they adjourned, although a majority of the audience favored the prolongation of the performance. The Liberal Party is dead, disembowelled by its own hand.”

The coalition had burst. Its candidates on the legislative ticket were chagrined at the turn affairs had taken, and one of them, Mr. Beckwith, repudiated his nomination. Eli B. Kelsey had a long letter in the Salt Lake *Tribune*, in which he said: “The spirit of the proceedings in the mass meeting of the Liberal party, held on

Saturday, the 22nd instant, convinced me that a portion of those who assume to lead are bent upon a war upon the people of this Territory on social and religious grounds. They did not disguise the fact that they utterly ignored the necessity of affiliating with the reform party in Utah in their efforts to bring about a peaceful solution of the questions at issue between the Mormon Priesthood and the Government of the United States. The reform party have persistently striven to convince the people that they are their friends and not their enemies. Every word of the blatant demagogue who slandered the people of Utah in that meeting convinced me that the small but active element that seeks control of the Liberal party is filled with bitterness and would fain inaugurate a social and religious war upon the people of this Territory. * * * I have frequently borne witness to the integrity of the Mormon people; their fidelity to their religion; their morality, industry and sobriety; and no party which harbors designs against the peace and welfare of the people of Utah shall ever have my co-operation."

The *Tribune* attempted to mend matters by editorial utterances such as these: "The Liberal party of Utah has a noble mission—one worthy the best efforts of the best men of the Territory. The questions at issue come home to the people, and should therefore be considered calmly, carefully and dispassionately. Narrowness, uncharitableness, bitterness and prejudice should be banished from the party councils, and denied a hearing in the public meetings. Fairness, firmness and moderation should characterize every act of every man who assumes to speak as a representative of the party. We want no cliques among the Liberals in this campaign, and no leaders—self-constituted or otherwise—who appeal to the passions or prejudices of the people. The party has quite enough to attend to in opposing the rule of the Church over political affairs, without spending time and fomenting discussions in its own ranks by useless opposition to particular institutions of the Church. We can oppose the union of church and state without stopping to quarrel about church doctrines. Polygamy is a social if not a religious institution

of the Territory, and it is established in such a manner that it cannot be suddenly extirpated. Neither is there any necessity for such violent measures. It is an institution which, if let alone, will die of itself, for the simple reason that it is not in harmony with its present surroundings. It needs no opposition. On the contrary, persecution will but serve to prolong its life.

“Having the good of the Liberal party at heart, and ardently desiring its success, we here protest against the attempts some weak, misguided men are making to force this political organization into a raid on the domestic institutions of the Territory, an object entirely foreign to its original design and present desire of nine-tenths of those who organized and now compose the Liberal Party of Utah. The party has legitimately nothing to do with the social questions, and with religious questions nothing further than to oppose the union of priestly with political rule.”

But all to no purpose. The coalition was at an end. A demon had been conjured up that could not be controlled, and the minority of the “reformers” were irretrievably overwhelmed. At the election the People’s Party cast 4,720 votes in this council district; the opposition having only 620. Henceforth the Liberal Party was utterly devoid of the reform feature. It was anti-Mormonism unmixed,—bitterness and rancor to the heart’s core. Elements of respectability from time to time have become attached to it, and at intervals have directed its policy; but one by one these are breaking away, leaving the party to die, poisoned by the exudations of its own encysted venom.

CHAPTER XX.

1870-1871.

CHIEF JUSTICE MCKEAN—HIS CHARACTER AND CAREER—EVENTS OF HIS ADMINISTRATION—THE BATES REVIEW—HON. THOMAS FITCH ON THE CHIEF JUSTICE AND HIS SATELLITES—THE CASES OF ORR VERSUS MCALLISTER AND HEMPSTEAD VERSUS SNOW—THE TERRITORIAL OFFICERS RULED OUT—THE PROBATE COURTS CURTAILED—MORMONS DENIED CITIZENSHIP BECAUSE OF THEIR RELIGIOUS BELIEF—THE ENGLEBRECHT TRIAL—THE JURY LAWS SET ASIDE—A PACKED JURY AND ITS VERDICT—U. S. ATTORNEY HEMPSTEAD RESIGNS—JUDGE MCKEAN APPOINTS R. N. BASKIN IN HIS STEAD—A LACK OF FUNDS CAUSES A DEADLOCK IN THE FEDERAL COURTS—JUDGE MCKEAN IN ANGER DISMISSES THE GRAND AND PETIT JURORS—THE PRESS ON THE UTAH SITUATION.

IT is time that we turn our attention to events connected with the administration of Chief Justice McKean, some of which run parallel in chronology with most of those narrated in the two preceding chapters. What Governor Shaffer was in a political and military way against Mormondom, Judge McKean proved to be in a judicial manner and direction. Each in his own line followed methods similar to those pursued by the other; seeking by lawless and tyrannical acts to correct and put an end to the alleged lawlessness and tyranny of the Mormons. Governor Shaffer did not live to reap the results—the humiliating results that would doubtless have followed a continuation of his arbitrary course. Judge McKean, on the contrary, survived his first mistakes upon the Utah bench only to pull down upon himself eventually the tottering fabric of his accumulated blunders, from beneath the crushing debris of which he never emerged.

James B. McKean was a native of the State of Vermont, where he was born on the 5th of August, 1821, in a house that stood on the battlefield of Bennington. He was the son of Andrew and Catherine B. McKean, and his father was a Methodist clergyman.

The greater part of his life was spent in the State of New York, where he resided up to the time of coming to Utah in the summer of 1870. He was then forty-nine years of age. Erect and well-formed, though not of stalwart frame, he was an amiable appearing gentleman, and that appearance undoubtedly betokened the general nature of the man. In society few could be more courteous, pleasant and winning than Judge McKean. These qualities, added to his intelligence, made him many friends, who were warmly attached to him. He was an accomplished scholar, could write a good newspaper or magazine article, and indulged at leisure hours in verse-building; in fact, he delighted in literature generally. Some of the poetry which fell from his pen is said to have possessed much merit. Withal he was a brave man, and a determined one, and but for the element of fanaticism in his nature, so manifest in his dealings with the Mormons, a proneness to prejudice, which blinded his judgment, biased his official conduct, and trailed, like a serpent among flowers, over all the noble traits of his character, would have been "a man picked out of ten thousand" for most of the qualities that go to make up a rounded and complete manhood. He was naturally of an imperious disposition, but much of the irritability and passion which he manifested was doubtless due to his physical infirmities. His health during the closing years of his life declined rapidly. No one, as previously stated, questioned his sincerity, his patriotism, his earnestness in discharging what he deemed to be his duty; but neither did any doubt, who saw him as he really was, and were not so kind to his virtues, or so blinded by self-interest, as to be unable to perceive the faults of their friend, that he was a religious fanatic, one who apparently thought more of the mission which he believed God had given him to break up Mormonism than of the oath he had taken as a United States magistrate, sworn to uphold the laws and mete out equal and impartial justice to all. Hence his surname of "Mission Jurist," or "Mission Judge," bestowed upon him soon after his arrival in Utah.

It does not mend matters to say that Judge McKean believed

himself to be an upright judge, a merciful magistrate. So, too, no doubt, did Jeffreys—England's judicial infamy—and likewise the Spanish inquisitor Torquemada. A poet or painter is not always the most competent critic of his own production; a magistrate not always the best judge of his own justice. Neither are a friend's plaudits any more than an enemy's detractions to be taken as conclusive in such cases. Judge McKean's record is just what he made it, and neither the flattery of friends nor the aspersions of foes can change it one iota. In dwelling upon that record, while we seek through charity to something extenuate, we set down naught in malice. Facts, and facts only are here "submitted to a candid world."

James B. McKean came to this Territory with the prestige and experience of an honorable past to lend luster to his local position and light the pathway of duty lying before him. In the Empire State he was the first County Judge to be elected by the Republican Party in Saratoga County. Sent to Congress from the district in which he resided, he remained a member of the National Legislature until after the beginning of the Civil War. In 1862 he resolved to take the field and fight for the Union. Accordingly he raised the Seventy-seventh New York Volunteers, of which regiment he was chosen Colonel. He took an active part in the Peninsular campaign, but owing to serious illness, which came nigh terminating his life, was compelled to resign the colonelcy of his regiment. Having recovered his health, he practiced law in New York City, and was still pursuing his profession in the metropolis when he received his appointment as Chief Justice of Utah. This, as stated, was in June, 1870, and on the last day of August of that year he arrived at Salt Lake City. He was installed in office on the 5th of September and forthwith began his career as a "mission jurist" in the midst of Mormondom.

Simultaneously with his advent began the gubernatorial and judicial crusade against the Mormons, determined on by the local Federal officials and their advisers, aiders and abettors. This movement, the general phases of which were approvingly watched from

afar by the heads of the Government, who did not learn until much mischief had been wrought that they had entrusted power to men who were unable, from their passions and prejudices, to wisely and at the same time vigorously use it, started so promptly with the seating of McKean in the chair of the Chief Justice as to force the conclusion that the subsequent proceedings had been preconcerted; that the machinery had been prepared, wheels oiled, knives sharpened, and that the entire enginery had but awaited the coming of the master hand to set [the mills to grinding. True; there had been some preliminary movements before the main action began. A decision by Chief Justice Wilson, in a case entitled *Orr versus McAllister*, denying the right of the Territorial Marshal to exercise the functions of his office in the District Courts, had been gleefully received by the anti-Mormons, being regarded by them as something of an offset to Secretary Mann's alleged pro-Mormon attitude in the woman suffrage matter, as well as a precursor to other events about to occur in the interests of their cause. The extra troops that they had asked for—having represented them as necessary to overawe the Mormons and protect the lives and property of the Gentiles—had been sent and were encamped almost within hailing distance of the peaceful settlement which some of the soldiers, a few weeks later, so disgracefully raided. But up to the time of Judge McKean's arrival no general movement had taken place on the part of the crusaders. The abatement of the Englebrecht liquor establishment had preceded by a few days the coming of the Chief Justice, but the famous trial that grew out of it, in which he figured so conspicuously, was an event yet in the future. Governor Shaffer's proclamation forbidding the musters of the militia, and unlawfully appointing over them a Major-General in the person of P. E. Connor,* was issued just ten days after Judge McKean took his

* Governor Shaffer also took the position that all Territorial officers not provided for in the Organic Act should be appointed by the Governor and he therefore commissioned on August 11th, 1870, G. W. Bostwick as Auditor of Public Accounts. This office was then held by William Clayton, Esq., who had been elected by the Legislature and com-

seat in the Third Judicial District. Seven days after the issuance of the proclamation the Provo raid occurred, and by this time the District Courts were in full blast, dealing Mormondom on right and left what were designed to be damaging blows. But those blows, unfortunately for those who dealt them, were mostly illegal, and there came a time when other cheeks than those of the hapless Mormons were involuntarily turned to the smiter—the cheeks of Utah's Federal Judges, and the smarting that resulted from the ear-cuffing process in their cases was none the less painful, none the more easily borne, because administered by the broad and mighty palm of the Supreme Court of the United States.

Judge McKean, in pursuing the tenor of his anti-Mormon career, was zealously assisted by his associates, Judges Hawley and Strickland; men of much smaller caliber than himself, but equally bigoted and hostile to the people among whom they had been sent to administer law and mete out justice. Judge Hawley was professedly a pious Methodist, and like Judge McKean, who is said to have owed his appointment to the influence of Dr. Newman and the Methodist Church, found it difficult to forget or forego his religious predilections and animosities even upon the bench. Judge Strickland was no less a "mission jurist" than his confreres, but if he mingled religious zeal with his prejudice against the Saints we are not aware of it. He was really an imitator of Judge McKean, his acts and policy, so far as his limited ability would permit, being a reflex of those of the Chief Justice. Hawley, on the contrary, frequently disagreed with his brothers on the bench, more as to method of procedure, however, than as to his general anti-Mormon policy. All, or nearly all the Federal officials in Utah at this time, and the anti-Mormons to a man,

missioned by Acting Governor Mann about six months previously. In reply to Mr. Bostwick's demand for the surrender of the office, Mr. Clayton informed him that he was not aware that the Auditor's office was vacant, and he therefore declined to accede to the request to turn over books, papers and other property thereto appertaining to any person not legally entitled to receive them. Attorney-General Snow, the legal adviser of the Territory, sustained Mr. Clayton in his position.

held up the hands of Judge McKean, whom they regarded as their Moses, while Gentile Israel fought against Mormon Amalek. In fact there was a conspiracy among the representatives of the Government and the enemies of the Saints generally, to use all the powers and functions of which they found themselves possessed, and all that they could grasp additionally, to encompass the destruction of Mormonism. To accomplish that object it was resolved that the liberties and even the lives of the leaders of the devoted community should not stand in the way.

The first step taken in this direction by Judge McKean and his coadjutors was the attempted abrogation of certain laws enacted by the Legislature in the early times of the Territory, laws which evidently had as a portion of their original purpose the protection of the people against the prejudiced and persecutive actions of just such fanatical crusaders as Judges Hawley, Strickland and McKean. We refer to the acts of the Legislative session of 1851-2 investing the Probate Courts with general civil, criminal and chancery jurisdiction, and creating the offices of Territorial Marshal and Territorial Attorney-General, as briefly set forth in Chapter xxiii, Volume I. of this history. These laws, though their validity had been questioned by some who had worn the Federal ermine in Utah, notably Judge Drummond and Judge Stiles—the latter of whom, upon this very point, became involved in a quarrel with several local attorneys whom he accused of intimidating his court—had been held as valid and actions taken under them confirmed by other Federal Judges, and had received by tacit approval the sanction of Congress for nearly twenty years. They had therefore become to all intents and purposes laws of Congress for this Territory. Such was the Mormon view of the matter, and it was the view of many non-Mormons as well. The principle involved is explained in the following extract from a review of Judge McKean's administration by George Caesar Bates, Esq., who, during a portion of that eventful period, was United States District Attorney for Utah. Mr. Bates was one of the non-Mormons to whom we refer. Says he:

The events to which allusion is made occurred during the years 1870-1-2-3-4, and in the spring of 1875, finally culminating in the removal of Chief Justice McKean from an office which he had disgraced and abused in a manner to which the world can furnish no parallel. Appointed through the Jesuitical influence of the Methodist Church, and sustained by the combined bigotry of the land, his downfall only came through the sheer recklessness of his despotic and brutal career.

A careful search of the records will reveal how, through such instrumentalities as those of packed grand and petit juries, a corrupt judge, a pretended United States district attorney, appointed by that judge, and the State's evidence of an atrocious murderer, who purchased his own immunity from justice by his perjury, it was intended to consummate the judicial murder of Brigham Young, Mayor Wells, of Salt Lake City, Hosca Stout, Joseph A. Young and other leading Mormons, on charges the most absurd and untrue.

Chief Justice McKean and his co-conspirators had their plans apparently well laid, but 'man proposes, God disposes.' Chief Justice Chase and his associates, inspired by the God of justice, stepped in at the last moment, overwhelmed the enemies of the Mormons, and scattered to the winds their unrighteous machinations. Before we present the proofs, however, from the records of this most remarkable providential interposition to arrest the hands of those would-be judicial murderers, we will give an analysis of the laws bearing upon the case, as expounded by the Supreme Court of the United States.

In the case of *Dred Scott*, Chief Justice Taney said :

"But the power of Congress over the person or property of a citizen (in a Territory), can never be a mere discretionary power under our Constitution and form of government. The powers of the Government and the rights and privileges of the citizen are regulated and plainly defined by the Constitution itself. And when the Territory becomes a part of the United States, the Federal Government enters into possession in the character impressed upon it by those who created it. It enters upon it with its powers over the citizen clearly defined, and limited by the Constitution, from which it derives its own existence, and by virtue of which alone it continues to exist and act as a government and sovereignty. It has no power of any kind beyond it; and it cannot, when it enters a Territory of the United States, put off its character and assume discretionary or despotic powers which the Constitution has denied to it. It cannot create for itself a new character separate from the citizens of the United States, and the duties it owes them under the provisions of the constitution. The Territory being a part of the United States, the government and the citizen both enter it under the authority of the Constitution, with their respective rights defined and marked out; and the Federal Government can exercise no power over his person or property, beyond what that instrument confers, nor lawfully deny any right which it has reserved."

"A reference to a few of the provisions of the constitution will illustrate this proposition.

"For example, no one, we presume, will contend that Congress can make any law for a Territory, respecting the *establishment of religion* or the *free exercise thereof*, or abridging the freedom of speech or of the press, or the right of the people of the Territory peaceably to assemble, and to petition the Government for the redress of grievances. *Nor can Congress deny to the people the right to keep and bear arms, nor the right to*

trial by jury, nor compel any one to be a witness against himself in a criminal proceeding.

“These powers and others in relation to rights of person, which it is not necessary here to enumerate, are, in express and positive terms, denied to the general Government; and the rights of private property have been guarded with equal care. Thus the rights of property are united with the rights of person, and placed on the same ground, by the fifth amendment of the Constitution, which provides that no person shall be deprived of life, liberty and property, without due process of law. And an act of Congress which deprives a citizen of the United States of his liberty or property, merely because he came himself or brought his property into a particular Territory of the United States, and who had committed no offense against the laws, could hardly be dignified with the name of ‘due process of law.’

“So, too, it will hardly be contended that Congress could by law quarter a soldier in a house in a Territory without the consent of the owner, in time of peace; nor in time of war except in a manner prescribed by law. Nor could they by law forfeit the property of a citizen, in a Territory, who was convicted of treason, for a longer period than the life of the person convicted; nor take private property for public use without just compensation.

“The powers over person and property of which we speak are not only *not* granted to Congress, but are in express terms denied, and Congress is forbidden to exercise them. And this prohibition is not confined to the States, but the words are general, and extend to the whole territory over which the Constitution gives power to legislate, including those portions of it remaining under Territorial government, as well as that covered by State government. It places the citizens of a Territory, so far as these rights are concerned, *on the same footing with citizens of the States and guards them as firmly and plainly against any inroads* which the general Government might attempt, under the plea of implied or incidental powers. And if Congress itself cannot do this—if it is beyond the powers conferred on the Federal Government—it will be admitted, we presume, that it could not authorize a Territorial government to exercise them. It could confer no power on any local government, established by its authority, to violate the provisions of the Constitution.”

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Congress, in 1850, acting on this theory of the entire separation of all the duties and acts of the United States officers in Utah from those of the Territorial officers thereof, in enacting the organic act for Utah, had provided by sec. 10, as follows:

“There shall be appointed for the District of Utah a United States District Attorney, who shall continue in office four years unless sooner removed by the President; and who shall receive the same pay and emoluments as the attorney of the United States for Oregon; and there shall also be appointed a United States Marshal for the Territory of Utah, who shall execute all processes issuing from said courts, when exercising their jurisdiction as circuit and district courts of the United States. He shall perform the same duties and be subject to the same pay as the Marshal of the present Territory of Oregon.”

The duties of the United States District Attorney for Utah are thus defined by the act of Congress of September 24th, 1819, sec. 35, vol. 1, U. S. Stat. at Large:

“There shall be appointed in each district a person learned in the law to act as the attorney of the U. S. in such district, who shall be sworn, etc.; and whose duty it shall be to prosecute in such district all delinquents for crimes or offences cognizable under the authority of the United States, and all civil actions in which the United States shall be concerned, except in the Supreme Court.”

And by the 2nd sec. of the same act, the duty of the United States marshals are thus defined :

“It shall be their duty to attend the district and circuit courts, when sitting and to execute, throughout their districts, all lawful processes directed to them, and issued under the authority of the United States.”

By the same organic law of Utah it was provided : “That the first six days of every term of the Territorial District Court, or so much thereof as shall be necessary, shall be appropriated to the trial of causes under the laws of the United States ;” and during those six, or any other days, when the courts were engaged in enforcing the laws of the United States, the United States marshal and district attorney performed precisely the same duties as the same officers would do in the Federal Courts in the States of the Union.

The Territorial Legislature, to enforce Territorial laws, had, on March 3rd, 1852, provided by statute for the election of a Territorial marshal and attorney-general, by a joint vote of both branches of the legislative council, by which all the duties of the attorney-general were thus defined. “To attend to all legal business on the part of the Territory before the courts, where the Territory is a party, and prosecute Indians accused of crimes, in the district in which he keeps his office, under the laws of the Territory of Utah.” And the duties of Territorial marshal were declared to be “to execute all orders and processes of the Supreme and District Courts of the Territory, in all cases arising under the laws of the Territory.”

This latter statute had been affirmed by Congress, for over twenty-two years, by its tacit approval thereof—and so had become, to all intents, the law of Congress itself.

It will thus be seen that, by the acts of Congress, the duties of United States district attorney and marshal for Utah were precisely the same as those in all the States of the Union, while the offices of Territorial attorney-general and marshal were the same as those of attorney-general and sheriff of the several States.

Under this state of things the conspirators deemed it necessary at the outset to get rid of the Territorial marshal and attorney-general, and vest their duties in the United States marshal and district attorney. They also wished to nullify the statutes of Utah providing for the drawing and impaneling of grand and petit jurors, as they could not otherwise use the courts as instrumentalities for the destruction of the Mormons.

The same principle set forth by Mr. Bates as having governed the Legislature in creating the offices of Territorial Attorney-General and Marshal, after Congress had provided for the appointment by the President and confirmation by the Senate of a United States District Attorney and Marshal for Utah, doubtless actuated the local law-makers in clothing the Probate Courts with extended powers,—

powers almost if not quite equal to those exercised by the District Courts. That principle, in brief, was the great democratic doctrine of local self-government. The District Courts were instituted and the Federal Judges provided by the Government for the trial of causes arising under the acts of Congress and of the Legislature. The United States District Attorney and Marshal were to attend, each in his legitimate sphere, to the business arising under the acts of Congress, while the Territorial Attorney-General and Marshal, in their respective spheres, were to attend to the legal business arising under the laws of the Territory. Both sets of functionaries were officers of the District Courts, but their duties were distinct and separate. The Federal Government defrayed the expenses incident to the settlement of United States business in the courts, and the Territory assumed the cost of its own. It was partly due to the fact that, as early as 1851, Hon. Elisha Whittlesey, Comptroller of the National Treasury, informed the Utah Legislature that the general government would only pay for the settlement of United States business in the courts, that the Legislature created the Territorial offices in question. They believed they had a right to do so, under the powers conferred in the organic act, and that they did have that right was admitted by Congress in its tacit approval during a period of twenty-two years of the law creating those offices. The immediate cause of the enactment of the law investing the Probate Courts with general jurisdiction, was firstly, the conduct of the "runaway judges," Messrs. Brandebury and Brocchus, whose unceremonious departure from the Territory threw too heavy a burden of duty upon their associate Judge Snow; and secondly, the subsequent practice of some of the Federal Judges of absenting themselves for long periods from their districts, and even from the Territory, leaving litigants without recourse to their tribunals. There is little doubt, however, that a regard for the great democratic principle pointed out by Mr. Bates—the inherent right of the people of a State or Territory to regulate under the Federal Constitution their own internal affairs—also had its effect in shaping the legislation. Doubtless the

fear, well founded it seems, that judges would be sent to the Territory who would use the tribunals over which they presided as engines of oppression, was one of the reasons why the Legislature clothed the Probate Courts—whose officers, instead of being sent from abroad were elected by the people or their representatives—with unusual powers. A similar reason—the fear of conspiring United States Attorneys and Marshals, using their functions to persecute, and not merely to prosecute—may have influenced in part the creation of the offices of Territorial Attorney-General and Marshal. A desire to maintain the principle of local self-government, however, was doubtless the ruling motive. And that motive, strengthened by an apprehension of just such reigns of terror as Utah has seen during the administration of some Federal officials, caused the Legislature to reconsider its partly formed purpose of 1852-3, to limit the jurisdiction of the Probate Courts and abolish the Territorial offices mentioned.

It was to the task of ridding themselves and their courts of the Territorial Marshal and Attorney-General, and the vesting of their respective powers in the United States Marshal and District Attorney, as well as of limiting the jurisdiction of the Probate Courts, so as to bring most of the legal business, civil and criminal, before the tribunals over which they themselves presided, that Chief Justice McKean and his associates first addressed themselves. It was also their purpose, as we shall see, to nullify the local statutes providing for the drawing and empaneling of jurors, in order that juries might be selected by their own minions, of a character and complexion suited to their designs, and the right of trial by jury—that bulwark of liberty—practically abolished so far as Utah and the Mormons were concerned.* In short, these religious fanatics, ostensibly United

* President George A. Smith says of these judges: "They paralyzed the judiciary of the several counties by declaring the statutes void that conferred civil and eriminal jurisdiction upon the Probate Courts, which those courts had exercised for twenty years. They decided that the Territorial laws under which jurors were drawn from the assessment rolls of the counties were void, and that all jurors must be selected by the United States

States judges, but in reality Methodist missionaries clothed in the ermine of Federal authority, in their zeal to crush out the hated system of Mormonism, which, in the persons of Brigham Young and Orson Pratt, had just won such a signal victory in an epistolary and polemical way over their redoubtable champion Doctor Newman, practically assumed the functions of Congress and the Legislature, setting aside the time-honored laws of the commonwealth enacted by the people's representatives, and superseding them with legislation of their own. That legislation, as shall be shown, was no more nor less than certain vitalized sections of the defunct Cullom bill, which Congress had failed to pass, partly if not wholly from a sense of its flagrant injustice and iniquity. The object in view was to place the Mormons completely in the power and entirely at the mercy of their religious and political foes. The disarming and disbanding of the militia by order of Governor Shaffer was but the prelude to this more serious invasion of the people's rights by the judicial representatives of the Federal Government.

Before taking up and treating in detail the events of Judge McKean's administration we desire to present here an extract from a speech delivered by Hon. Thomas Fitch in the Constitutional Convention of Utah, February 20th, 1872, in which he reviewed in his inimitable way the acts of the McKean coterie. Mr. Fitch was then a resident of Salt Lake City, having removed from Nevada to make his home in this Territory. Said this master of eloquent expression:

About August, 1870, James B. McKean arrived here as Chief Justice of the supreme court of Utah Territory, and District Judge of the third judicial district. From the hour of his arrival he has been the leading controlling spirit of the existing movement against the Mormon institutions. He is not, perhaps, an immoral man in his private life, and for

Marshal or his deputies. By this ruling they set aside the law and practice of this and all other Territories from their earliest formation. They further decided that *their* courts were United States courts and ruled out the Territorial Attorney-General, the attorneys for the different districts and the Territorial Marshal and Sheriffs of counties, declaring that the duties which had been performed by them belonged to the United States District Attorney and his deputies, and the United States Marshal and his deputies."

the purposes of this argument it is not necessary to inquire whether or no he is a corrupt man either in private or official transactions, but he certainly is that most dangerous of all public functionaries—a judge with a mission to execute, a judge with a policy to carry out, a judge panoplied with a purpose as in complete steel. Whether or not consciously, but with implacable and unswerving determination, he has steadily subordinated his judicial duties and his judicial character to the fulfillment of his mission and the execution of his policy. Motions are held under advisement for months, civil business accumulates upon the calendar, great mining cases are referred, or abandoned by disgusted litigants, and still the judge alternates between the business of an examining magistrate and the pleasure of thanking the grand jury for finding indictments. While possessing sufficient knowledge to comply with some of the forms of law, and sufficient personal courage to forward his plans, he is yet destitute of the spirit of impartial jurisprudence. We all know there is a class of minds which after many years of upright and dispassionate conduct, will, through lust of power, or gain of fame, or other inordinate aim, suddenly develop some insurgent quality which stops nothing short of morbidness, little short of insanity. It is for the prestige of his past that this man, notwithstanding his remarkable actions here, continues to receive the support of the Federal administration, while with some sincerity in the righteousness of his crusade, he wins for himself the endorsement of thousands of persons who only know that they desire polygamy shall be destroyed, and who do not ask the price, or enquire “how many Athenians are in mourning?”

Whether or not this theory be correct respecting the cause, and it is the most charitable of any I can conceive, the result is the same. James B. McKean is morally and hopelessly deaf to the most common demands of the opponents of his policy, and in any case where a Mormon, or a Mormon sympathizer, or a conservative Gentile be concerned, there may be found rulings unparalleled in all the jurisprudence of England or America.

Such a man you have among you ; a central sun ; what of his satellites ?

The mineral deposits of Utah have attracted here a large number of active, restless, adventurous men, and with them have come many who are unscrupulous, many who are reckless ; the hereditary foes of industry, order and law. This class finding the courts and Federal officers arrayed against the Mormons, have with pleased alacrity placed themselves on the side of courts and officers. Elements ordinarily discordant blend together in the same seething cauldron. The officers of justice find allies in those men who, differently surrounded would be their foes ; the bagnios and the hells shout hosannas to the courts ; the altars of religion are invested with the paraphernalia and the presence of vice ; the drunkard espouses the cause of the apostle of temperance ; the companion of harlots preaches the beauties of virtue and continence. All believe that license will be granted by the leaders in order to advance their sacred cause, and the result is an immense support from those friends of immorality and architects of disorder who care nothing for the cause, but everything for the license. Judge McKean and Governor Woods and the Walker Brothers and others are doubtless pursuing a purpose which they believe in the main to be wise and just, but their following is of a different class. There is a nucleus of reformers and a mass of ruffians, a center of zealots, and a circumference of plunderers. The dramshop interest hopes to escape the Mormon tax of \$300. per month by sustaining a judge who will enjoin a collection of the tax, and the pros-

titutes persuade their patrons to support judges who will interfere by *habeas corpus* with any practical enforcement of municipal ordinances.

Every interest of industry is disastrously affected by this unholy alliance; every right of the citizen is threatened if not assailed by the existence of this combination. Your local magistrates are successfully defied, your local laws are disregarded, your municipal ordinances are trampled into the mire, theft and murder walk through your streets without detection, drunkards howl their orgies in the shadow of your altars, the glare and tumult of drinking saloons, the glitter of gambling halls, and the painted flaunt of the bawd plying her trade now vex the repose of streets which beforetime heard no sound to disturb their quiet save the busy hum of industry, the clatter of trade and the musical tinkle of mountain streams.

The processes by which this condition of affairs has been brought about, as well as the excuse for invoking these processes, may here be briefly stated:

In 1856 a great political party declared itself opposed to polygamy as a relic of barbarism; in 1860 that party achieved power in the nation; in 1862 an act of congress was passed, the object of which was to suppress polygamy in Utah. This law was permitted to remain a dead letter upon the statute books. The war to suppress the rebellion, the problems of reconstruction growing out of that war, the proposed impeachment of President Johnson, the various exciting public questions of the day, diverted the minds of legislators and constituencies from the Mormon question; and not until after President Grant's inauguration did the anti-polygamy plank of the republican platform loom up into national consequence. It was then observed that the anti-polygamy act of Congress of 1862 had never been enforced. The territorial laws for drawing and impaneling juries provided, as in all other communities, for a selection by lot. Nineteen-twentieths of the persons eligible to jury duty in Utah were Mormons, who naturally declined to indict or convict their neighbors for a practice which was believed by all to be a virtue rather than a crime. The law prescribed one rule, the sentiment of the community where the law existed prescribed another. Similar conditions prevented the trial of Jefferson Davis for treason at Richmond; similar conditions made it impossible to convict a violator of the fugitive slave law in New England. The forty-first congress was asked to enact a law to meet the exigency and the Cullom bill was framed. This measure provided that the selection of jurors should be given to the United States marshal, that polygamists and those who believed in polygamy should be excluded from the jury box, that the wife might be a witness against the husband, that marriage might be proved in criminal cases by reputation, and that the statute of limitations should not apply to charges of polygamy. The wisdom and justice of this sweeping measure were seriously questioned by the New York *Tribune*, and other Republican papers, and by such leading Republican statesmen as Henry L. Dawes, of Massachusetts, and Robert C. Schenck, of Ohio; but the bill passed the house by nearly a party vote, and failed to become a law only because the United States Senate did not find time or inclination to consider it during the forty-first Congress.

After the adjournment, or about the time of the adjournment of the second session of the forty-first Congress, James B. McKean was appointed Chief Justice of Utah, and with military promptness he proceeded by his decisions to establish as rules of law the propositions of the defeated Cullom bill. He decided in the case of

Hempstead *vs.* Snow that the court over which he presided was a United States court, that it was not a legislative but a constitutional court, and that the Territorial prosecuting attorney was not, even when prosecuting offenders charged with violation of Territorial laws, the proper prosecuting officer of his court, but that the United States district attorney was such. He decided in the case of Patrick *vs.* McAllister that the Territorial marshal was not, in any case, the proper executive officer of his court, but that the United States marshal was such in all cases. He decided in another case that the Territorial legislature of Utah had no power under the organic act to prescribe rules for obtaining juries to try any cases in his court, and in prescribing rules himself for that purpose, he declined to consult the assessment roll or invoke the usual method of selection by lot, but he ordered the clerk to issue an open venire to the United States marshal.

Thus the first proposition of the defeated Cullom bill, that the marshal might pick, I will not say pack, the jury, was decreed into existence.

Mr. Fitch then proceeded to show how, step by step, the dead Cullom bill was vitalized by Judge McKean and his associates, and made for the time being, and until the Supreme Court of the United States reversed his decision in the Englebrecht case, the law of the land throughout Utah. Let us now deal with events in their order.

As early as May, 1870, before Judge McKean had appeared upon the scene of his local labors, and while Chief Justice Wilson was still upon the Utah bench, a case entitled Orr *versus* McAllister, previously mentioned, had come up in the Third Judicial District. The parties were J. Milton Orr, United States Marshal, and John D. T. McAllister, Territorial Marshal, and the proceedings were upon a writ of *quo warranto*;* the question at issue being whether or not Mr. McAllister had the right to act as Marshal in the District Courts. Judge Wilson delivered his opinion, deciding in favor of the relator, Mr. Orr. The *Deseret News*, commenting on this decision, said: "The right to act as Marshal in the United States District Courts here, whether it was or was not possessed by the Territorial Marshal has been a much disputed point, and has before been raised and decided in favor of the Territory by the highest United States judicial authority here. This time a contrary decision has been rendered by Judge Wilson, and we have no doubt that it is strictly in accordance

* "A writ brought before a proper tribunal to inquire by what warrant a person or corporation exercises certain powers."—*Blackstone*.

with his interpretation of the law; but although we have a high opinion of his legal attainments and great respect for him as a gentleman, we must dissent from his rulings in this case, believing that his construction of the law in relation to it is not the correct one."

This, however, was not the end of the matter. An appeal was taken to the Supreme Court of the Territory, where the case was duly docketed and along with it another—also upon a writ of *quo warranto*—entitled Snow *versus* Hempstead, these parties being C. H. Hempstead, United States District Attorney for Utah, and Zerubbabel Snow, Attorney-General for the Territory. The latter action, which had also been appealed from the District Court, where it was tried during the December term, 1870, involved the right of Judge Snow to officiate as Territorial Attorney-General in the courts presided over by the Federal Judges. Before the Supreme Court delivered its decisions in these cases, James B. McKean had entered upon his career as Chief Justice of Utah. He and his associates, Judges Hawley and Strickland, affirmed the judgment of the lower court, ruling out the Territorial Marshal and Attorney-General. The date of their decisions in those cases was March 13th, 1871.

The attempt to limit the jurisdiction of the Probate Courts began about the time that Judge McKean took his seat upon the bench of the Third District Court, though he does not appear to have taken the initiative in this matter. Neither did he make the first move toward setting aside the jury laws. The plans of the crusaders into which he entered so thoroughly, and to execute which he bent every energy of his soul, had been partly formed before his arrival, and Judges Hawley and Strickland, with Governor Shaffer and others had all but opened the campaign against the Saints before the Chief Justice was seated. It is not believed that Judge Wilson, for all of his adverse decision against the Territorial Marshal, was their fellow conspirator. The fact that the anti-Mormons worked for and effected his removal, fearing, no doubt, his independence of spirit, manifested—this time to their advantage—in that very decision, is circumstantial evidence

that he was innocent of complicity in their schemes. In the interim between the departure of Judge Wilson and the arrival of Chief Justice McKean, Judge Strickland had presided over the court of the Third District, and during his brief incumbency he had ordered an open venire to issue upon which the U. S. Marshal, Colonel Patrick, might select the Grand Jurors for the September term. Before this venire was returned Judge McKean, having arrived, was assigned to the Third District, and Judge Strickland transferred to the First. The seat of the latter district was at Provo, the scene of the disgraceful raid already described. It was probably Judge Strickland who rendered the decision referred to by General De Trobriand in his letter to Governor Shaffer, contained in a previous chapter. Therein the General cites as a reason why the civil authorities of Provo declined to receive as prisoners the soldiers who had raided their settlement, the fact that "a legal decision of recent date"—delivered of course by the Judge of the First District—had "withdrawn the criminal cases from the jurisdiction of the Probate Courts," so that "the prisoners, if taken in custody by the City Marshal, would soon be released on a writ of *habeas corpus*." This decision must have been given prior to September 23rd, the date of the Provo raid. Judge Hawley, presiding over the Second District Court at Beaver, followed the example of his confrere in the First District by deciding that the Probate Courts had no jurisdiction in criminal cases, nor in any cases save those pertaining to the proof of wills and the administration of estates. The effect of this decision—rendered during the week ending October 15th—was to discharge from custody a prisoner named Morgan L. Peden, who had been convicted in the Probate Court of Beaver County of assault with intent to kill Isaac Riddle, and had been sentenced to two years and six months' imprisonment in the penitentiary. Encouraged by this turn in his affairs, Peden on regaining his liberty instituted proceedings in the District Court against Judge Murdock, Sheriff Hunt and Isaac Riddle for fifty thousand dollars, the basis of the action being his trial and conviction in the Probate Court. Judge Hawley also refused at this time

to naturalize certain Mormons who wished to become American citizens because they would not "discard polygamy." Before this, however, Chief Justice McKean at the capital had denied citizenship to Mormon aliens virtually on the ground of their belief in plural marriage.*

Prior to this incident McKean had rendered his notorious decision on the question of Federal *versus* Territorial jurisdiction, declaring the court over which he presided a United States court and not a Territorial tribunal, and setting aside the laws of Utah relating to the drawing and empaneling of jurors. The occasion for this decision was the trial of the celebrated Englebrecht case, which came up in the District Court at the opening of the September term. As the final ruling in this case, by the Supreme Court of the United States, was the thunderbolt which shattered the illegal and persecutive proceedings in the Federal courts of Utah during the first part of the McKean period, it is proper that some particulars in addition to those already noted concerning it should here be given.

It is well known that from the earliest settlement of Utah the general sentiment of her people has been strongly opposed to the liquor traffic. In February, 1851, the Provisional Government of Deseret prohibited by law the manufacture or vending of ardent spirits. Subsequently the manufacture of liquor was permitted to a limited extent, under strict regulations, and its sale for medicinal and domestic purposes likewise allowed. But no drinking saloons were tolerated. As the population of the Territory increased, and in the capital city especially became of a mixed character, the municipal authorities were prevailed upon, after many petitions and remonstrances, to grant a number of licenses to sell liquor. In taking this

* The first cases of this kind were those of John C. Sandberg, a Swede, and William Horsley, an Englishman, who, on the 6th of October, 1870, applied to Judge McKean for naturalization. His honor questioned them upon their belief in plural marriage and asked whether or not they regarded the anti-polygamy act of 1862 as binding upon them. Sandberg stated that he believed it right to obey the laws of God rather than the laws of man, and Horsley declined to answer. Thereupon they were refused citizenship, not being considered by Judge McKean as of "good moral character."

step the City Council of Salt Lake were careful to prescribe metes and bounds that would prevent, it was hoped, any abuse of the privilege. This is plainly evident from the following ordinance, passed by the Council in the autumn of 1866:

AN ORDINANCE

Relating to Licenses for the Manufacture and Sale of Spirituous, Vinous and Fermented Liquors.

SECTION 1.—Be it ordained by the City Council of Great Salt Lake City, that it shall not be lawful for any person or persons to manufacture, sell, or otherwise dispose of any spirituous, vinous or fermented liquors, nor to establish, or keep, or assist in keeping or conducting any house or place for the purpose of manufacturing, or selling or otherwise disposing of any spirituous, vinous, or fermented liquors within the limits of this city without first obtaining license from the city council for such purposes.

SEC. 2.—That a wholesale liquor license shall not authorize any person to sell, barter or deliver any wines, spirituous or fermented liquors in less quantity than ten gallons, or in original packages; and bottled liquors or wines only in original packages as imported, and in no case to be drunk on the premises of parties so licensed.

SEC. 3.—That a retail liquor license shall not authorize the sale of wines or spirituous liquors in a greater quantity than three gallons, and in no case to be drunk on the premises.

SEC. 4.—That a license to keep a bar, drinking saloon or dramshop, shall not authorize any person to sell, barter, or deliver, or suffer or permit to be sold, bartered, or delivered, any spirituous, vinous or fermented liquors, or any composition of which wines or spirituous liquors form a part in any quantity, except to be drunk on the premises of the person so licensed.

SEC. 5.—That all persons so licensed as set forth in the preceding section, shall institute such regulations in their houses as shall restrain drunkenness, riotous or disorderly conduct, and shall keep a cleanly, well regulated establishment, which shall not be open for the sale of liquors between the hours of eleven o'clock at night and four o'clock in the morning, and the police shall have access to the premises at all hours.

SEC. 6.—It shall not be lawful for any person to sell or dispose of any spirituous, vinous or fermented liquors to any person under sixteen years of age, or to any Indian; nor to sell or otherwise dispose of any liquors on the Sabbath day.

SEC. 7.—Any person having reasonable cause to believe that any house or place, mentioned in the foregoing sections of this Ordinance, is established and kept for the purpose of manufacturing, selling or otherwise disposing of spirituous, vinous or fermented liquors, without first obtaining license from the City Council, and will make oath of the same, describing the place, and if upon investigation it shall so appear, the Mayor or Alderman before whom such complaint has been made may issue his warrant, directed to the City Marshal or any of his deputies, commanding him to enter said house or place and demolish all things found therein, made use of for the purpose of manufacturing, selling or otherwise disposing of spirituous, vinous or fermented liquors, and to arrest the person

or persons owning, keeping or conducting said house or place and bring him or them before the court, and such person or persons, on conviction, shall be liable to a fine not to exceed one hundred dollars and imprisonment not to exceed six months, or both fine and imprisonment, at the discretion of the court.

SEC. 8.—The City Council, on granting licenses to any person or persons for the manufacture or sale of spirituous, vinous or fermented liquors shall determine the time for which it shall be given and the amount to be paid thereon, and shall require bonds with security, and determine the amount thereof, for the due observance of the ordinances and regulations of the city. Said bonds shall be approved by the Mayor or City Council and filed with the Recorder.

SEC. 9.—Any person violating any of the provisions of this ordinance shall be liable to a fine in any sum not exceeding one hundred dollars and forfeiture of license.

SEC. 10.—All ordinances and parts of ordinances relating to the manufacture and sale of spirituous, vinous and fermented liquors, heretofore passed by the City Council, are hereby repealed.

Passed, October 27th, 1866.

DANIEL H. WELLS, Mayor,
ROBERT CAMPBELL, City Recorder.

Probably some of the liquor dealers who took out licenses under this ordinance faithfully complied with the terms and conditions thereby imposed. There were others, however, who sought every opportunity to evade the law and carry on their traffic, independent of any license. One of these was Mr. Paul Englebrecht, who, it appears, had sought, during the administration of Chief Justice Titus, to test in the courts the validity of the city charter and ordinances upon this very question. Judge Titus decided this case, as he did that of Dr. Robinson *versus* Salt Lake City—in which also the validity of the city charter was questioned—in favor of the municipality. But Mr. Englebrecht was persistent in his efforts to override law and authority. As a consequence twice before the summer of 1870 his establishment had been abated by the police. A few months prior to the event about to be related he concluded to drop the retail license under which he and his partners were conducting a saloon on Second South Street, and in lieu thereof to take out a license to sell liquor at wholesale. This was granted to him on his application to the City Council. A wholesale license, as seen from Section 2 of the foregoing ordinance, did not authorize the sale of liquors in less quantity than ten gallons, except where bottles, etc. were sold in original

packages. But Mr. Englebrecht continued selling at retail, that is, by the dram, for which he now had no license. For that offense he was arrested and fined three times. At the expiration of his wholesale license he applied for its renewal, and his application was granted. He refused, however, to sign the bond required by Section 8 of the ordinance and consequently was left without any license at all. Continuing to carry on his business, and selling both at wholesale and retail, he was thrice arrested and fined, but took an appeal from this action of the city authorities, denying their jurisdiction. Evidently he now supposed that he could keep on breaking the law with impunity, while the case between himself and the municipality dragged its slow length through the District Court, which was not then in session. If this was his supposition he was very much deceived. The guardians of the city's peace did not propose to be trifled with, to have their laws trampled upon and themselves treated with contempt. Learning that Mr. Englebrecht and his associates were still selling liquor, and that at their place it could be procured in any quantity from a gill up to a barrel, Alderman Jeter Clinton issued his warrant, in accordance with Section 7 of the liquor ordinance, and on Saturday the 27th of August City Marshal John D. T. McAllister, Captain of Police Andrew Burt and a force of officers proceeded to the establishment of Englebrecht & Co., which they had been ordered to abate. The head of the firm was absent but the Marshal read his warrant to one of his partners, Mr. Chris. Rehmke, who was in charge of the saloon, and then proceeded to carry out his instructions. Messrs. McAllister and Burt assigned the men their duties and the work of demolition began. Barrels and kegs containing whiskey, brandy, wine, beer, etc, were rolled into the street, the heads knocked in and the contents poured into the gutters. Every vessel containing liquor and every article used in its sale were demolished, but the police were careful not to injure any other property on the premises. The work was done as quietly as possible, no unnecessary violence being employed, and in about half an hour

the act of abatement was complete. The proceeding was witnessed by about two hundred spectators.

Two days later—Monday, August 29th,—Alderman Clinton, Captain Burt and several of the police who had engaged in the execution of the warrant issued by the first-named official, were arrested by U. S. Marshal Patrick on a warrant issued from the District Court, charging them with unlawfully, willfully and maliciously destroying the contents of Englebrecht and Co's liquor store. Judge Strickland was then sitting in the Third District, and before him the preliminary hearing took place that afternoon in Faust's Hall, which was used as the Federal Court room. The accused were admitted to bail, Messrs. Clinton, Burt and Hyde each in the sum of \$10,000, and the others in sums of \$2,000. These arrests were on a criminal charge. A few days later a civil suit was planted against those who had taken part in the abatement, and Marshal McAllister and all who had acted under his orders, were arrested and held in bonds aggregating over \$70,000 to await the action of the Grand Jury.

The September term of the Third District Court opened on Monday, the 19th, at 10 o'clock a. m., Chief Justice McKean presiding. The Grand Jury being called, the attorneys for the city officers who were under bonds challenged the array and filed a motion to set aside the jury on the ground that its members had not been selected, drawn and summoned as required by the laws of Utah. They had in fact been summoned by the U. S. Marshal on the open venire already mentioned as having been issued by order of Associate Justice Strickland. The usual method of choosing jurors, according to the laws of the Territory, was to select them by lot from the assessment rolls.* The challenge to the array of the Grand Jury

*The law upon the subject was as follows: "When a District Court is to be held whether for a district or a county, the clerk of said court shall, at least thirty days previous to the time of holding said court, issue a writ to the Territorial Marshal," etc. "Upon the reception of such writ, the Territorial Marshal or Sheriff, as the case may be, shall proceed to the office of the Clerk of the County Court of the County from which jurors are to be summoned, and the said clerk shall, in the presence of the officer, thoroughly

was upon two grounds. First: that the jurors had not been drawn, selected and served as the laws of the Territory prescribed. Second: that they were not summoned by any officer of the Territory authorized by law to serve such summons. A demurrer to the challenge was entered by the U. S. Attorney and argued by the following named gentlemen: Messrs. Aurelius Miner, Zerubbabel Snow and Enos D. Hoge for the challenge, and U. S. Attorney Hempstead and R. N. Baskin, Esq., for the demurrer. The arguments having concluded, Judge McKean rendered his decision, from which we will present a few paragraphs. Said he, after stating the matter in controversy:

The Legislative Assembly of this Territory possesses large powers. The Act of Congress organizing the Territory, approved September 9th, 1850, provides "That the legislative power of said Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act." But the Legislative Assembly derives none of its powers from the Republic of Mexico, to which the Territory once belonged. That Assembly is the creature of the Congress of the United States, and has no powers, save such as are delegated to it, expressly or impliedly, by the act organizing the Territory. And Congress, in that act, reserved to itself the right to disapprove any and all acts of the Assembly, even when such acts are within the scope of the powers delegated to the Assembly. If any acts of the Assembly are beyond the scope of the powers delegated to it they may be set aside by the courts as well as by the Congress. There is but one sovereignty in Utah, and that is the sovereignty of the United States.

Having considered the powers and limitations of the Legislative Assembly, let us next inquire what are the powers and limitations of this court. What kind of a court is it? It is certain that it was neither created nor can it be abolished by the Legislative Assembly of Utah. Its Judge was not appointed or elected, nor can he be removed, nor impeached by the Assembly. This court is not technically a Territorial Court. No one claims that it is a State Court. Its jurisdiction is without the bounds of the States, and it derives none of its authority from any of the States. Under the United States government there are several tribunals. There is such a tribunal as the Supreme Court of the United States, whose terms are held in the Capitol at Washington. There is such a tribunal as

shake the tickets previously deposited in the box or other safe place of deposit, and draw therefrom promiscuously the number of jurors required to be summoned from such county for Grand Jurors and for Petit Jurors, keeping separate lists, and those drawn for Grand Jurors shall be summoned for Grand Jurors, and those drawn for Petit Jurors shall be summoned for Petit Jurors, which lists shall be signed by the clerk and officer having said writs, and filed in the office of said clerk. The court shall impanel out of the list summoned as Grand Jurors fifteen eligible men to serve on a Grand Jury," etc.

the District Court of the United States for the Northern District of the State of New York. The Act of Congress organizing this Territory (Sec. 10.) refers to such a tribunal as the "District Court of the United States for the present Territory of Oregon." There is such a tribunal as the District Court of the United States for the Third District of the Territory of Utah; and this last named court is here and now in session. When, in October next, the Judge of this court shall sit here, with his brothers Strickland and Hawley associated with him, that tribunal will be the Supreme Court of the United States for the Territory of Utah. The Supreme Court and District Courts of this Territory are, therefore, courts of the United States.

* * * * *

Is there any law prescribing the manner of procuring Grand and Petit Jurors for criminal cases in this court? If there is, what is it? Is it an act of the Congress of the United States, or an act of the Legislative Assembly of the Territory? If both, are they consistent with each other? and if inconsistent, which must prevail?

While acting by assignment in this District, Mr. Justice Strickland, "upon notification by the United States Attorney that a Grand Jury would be needed," and also in the exercise of "his own discretion," ordered a *venire* to be issued by the clerk of this court to the United States Marshal for the Territory. He did so in pursuance of those well known acts of Congress which prescribe this method of procuring juries in the Circuit and District Courts of the United States. The service of that *venire* by the Marshal has brought these jurors into court. The act organizing the Territory (Sec. 10.) requires the Marshal to perform the same duties as the Marshal of the District Court of the United States for the then Territory of Oregon; and those duties were the same as those of the Marshal in the Northern District of New York. One of those duties is the summoning of juries.

* * * * *

But what did the Legislative Assembly do in January, 1853? It enacted thus: "In jury cases, before the introduction of any evidence, the court shall issue an order requiring an officer to summon for that purpose a reasonable number of judicious men, etc.;" and further thus: "When necessary, the court shall issue an order requiring *an officer* to summon fifteen judicious men, residents of the county, for a Grand Jury, etc." Whether this act was intended to apply to this court or not, it makes no attempt to take from the court the control of the *venire*. The words, *an officer*, may mean, and should be construed to mean, the "proper officer of the court,"—in this instance the United States Marshal; and that officer is left at liberty to summon whom he pleases, provided they be "judicious men." There is in these particulars no necessary conflict between Congress and the Assembly. The act of Congress to organize the Territory (Sec. 9.) provides "that the judicial powers of said Territory shall be vested in a Supreme Court, District Courts, Probate Courts, and in Justices of the Peace." The Assembly can no more add to this number of judicial bodies than it can abolish one or all of these. But by Act, approved January 8th, 1866, the Assembly has enacted that the Probate Judge in connection with three selectmen shall be known as the "County Court."

* * * * *

By another Act the Assembly directs these "County Courts" to select the men from among whom it commands the jurors to be taken, for this District Court. It is not nec-

essary, however, in disposing of the questions at bar, to pass upon the legality of these "County Courts."

But the Legislative Assembly, by Act of January, 1859, amended in February, 1870, has sought to take from the District Judges, the United States Attorney, and the United States Marshal, all control over the jurors of this court. Congress says that the Judge, in his own discretion, or upon a notification by the Attorney that a jury will be needed, shall order the *venire* to issue; the Assembly goes by the Judge, goes by the Attorney, and commands the clerk to issue it. Congress says that the *venire* shall issue to the United States Marshal; the Assembly says it shall issue to an officer which it has elected, and which it calls the Territorial Marshal. Congress says that twenty-three men shall be summoned for Grand Jurors; the Assembly says that eighteen shall be summoned. Which must give way—the Congress or the Assembly?

The challenge to the array must be overruled, and the demurrer thereto sustained. Let the Grand Jury be sworn.

All was now plain sailing for the crusaders. With the jurisdiction of the Probate Courts so limited and curtailed as to throw most of the criminal and civil cases that might arise into the District Courts, and those courts presided over and officered by men working all but confessedly in the anti-Mormon cause; with the power to select juries from which every Mormon was carefully excluded and none but non-Mormons chosen to find indictments or to render verdicts, the conspirators were jubilant and in high feather and the rights and liberties of the people at large in imminent jeopardy. The revolution anticipated by the anti-Mormons was at hand. The Mormons were at the mercy of their enemies. The cause of "the ring" was paramount.

The first object lesson in packed juries and their methods ever presented to the people of Utah, was given on Friday, November 4th, 1870, when the trial jury in the case of Paul Englebrecht, Christian Rehmke and Frederick Lutz, plaintiffs, *versus* Jeter Clinton, J. D. T. McAllister, Andrew Burt and others; defendants, rendered a verdict for the former against the latter, sustaining the claim of the liquor dealers for the sum of \$59,063.25, three times the amount of actual damage done by the city officers in the act of abatement. After the acceptance by Judge McKean of the illegal Grand Jury, composed practically of anti-Mormons, selected by the United States Marshal, the finding of an indictment against the Mormon civil officers who

had authorized and participated in the abatement of a non-Mormon liquor establishment, was a foregone conclusion. That indictment being duly returned, and the other preliminaries arranged, the case had come on for trial. The plaintiffs, Messrs. Englebrecht, Rehmke and Lutz, claimed that property belonging to the three, and not merely to Mr. Englebrecht—against whom alone, it appears, Alderman Clinton's warrant was directed—had been destroyed by the defendants to the amount of \$22,589.75, and they demanded judgment against them in a sum equal to three times that amount, basing their claim upon Section 102 of "An Act in relation to crimes and punishments"—part of the New Civil Code of Utah—which, in cases where property was willfully or maliciously destroyed, rendered the guilty persons liable, not only to fine and imprisonment, but "to the party injured in a sum equal to three times the value of the property so destroyed or injured." They asserted that those who destroyed their property had acted unlawfully, willfully and maliciously. The defendants in their answer denied this charge, claiming that the proceedings were lawful and that the act of the police was neither willful nor malicious, being directed by proper authority. The plaintiffs demurred to this answer on the ground that Alderman Clinton had no jurisdiction or authority to issue the warrant and that the same was void upon its face. Arguments for the demurrer were made by Messrs. George R. Maxwell and R. N. Baskin, and against it by Messrs. Z. Snow, E. D. Hoge and Aurelius Miner. Judge McKean overruled the demurrer, holding it to be the right of the defendants to prove to the jury that the warrant and judgment under which they acted were valid, or, if they failed in that, that it was their right to prove that they had believed the same to be valid, and were therefore innocent of willful and malicious intent.

It was generally supposed that this ruling, which was favorable to the defendants, with the testimony given by them at the trial, would reduce their offense in the eyes of the jury to one of mere trespass, for which, under the Territorial statutes, only the amount for the actual damage done could be claimed or awarded. The jury,

however, had been too carefully selected for anything of that kind to occur. Hence their verdict, assessing treble damages against the defendants, who were assumed to have acted willfully, maliciously and without authority. The case was carried from the District to the Supreme Court of the Territory, and the judgment there affirmed. It was then appealed to the Supreme Court of the United States.

But higher game than a Mormon Alderman, a Mormon City Marshal, and several Mormon police officers was sought by the anti-Mormon Nimrods. The Englebrecht case,—which obviously was no part of the pre-arranged program of the plotters,—having been disposed of, the mills of the Federal courts were kept in motion, and preparations made for “grinding to powder”—such was Judge McKean’s own expression—“the disloyal high priesthood of the so-called Church of Jesus Christ of Latter-day Saints.”

Not long after the trial of the Englebrecht case in the District Court, the U. S. District Attorney, Mr. Hempstead, resigned, being unwilling, it is said, to prosecute longer under the extraordinary rulings of Judge McKean’s court. This was a trifle awkward for the Federal Judges and their co-conspirators. The Chief Justice, however, proved equal to the emergency. Having already assumed the authority and exercised the functions of the Legislature and of Congress, it was but a mere step to take upon himself the duties of the President of the United States. It was not until October, 1871, that President Grant appointed a successor to Mr. Hempstead in the person of George C. Bates, Esq., who has been mentioned. But Judge McKean, in order that proceedings against the Mormon leaders might not be delayed, appointed R. N. Baskin U. S. Attorney for Utah; “an office,” says Mr. Bates, “which no person can lawfully fill unless nominated by the President and confirmed by the Senate of the United States.” George R. Maxwell became his assistant, and together they acted in the interim between the resignation of Major Hempstead and the lawful appointment of his successor. Before that, however, Mr. Baskin, while acting as Mr. Hempstead’s assistant,

in conjunction with the anti-Mormon Grand Jury had drawn up indictments against several prominent Mormons, and the prospects for a busy winter in the Third District Court had been more than promising.

But now a temporary set-back was experienced by the crusaders. It was owing to a lack of funds with which to defray the expenses of the Federal Courts. The Legislature, which had held its Nineteenth Session early in 1870, had appropriated sufficient money to pay the expenses of those courts up to date and provide a contingent fund for their immediate future needs, which fund, it was expressly stated, should be drawn and disbursed by the Territorial Marshal, John D. T. McAllister. But that officer by a decree of the District Court had been deposed and his duties vested in the United States Marshal. The incumbent of the latter office, in July, 1870, was Colonel M. T. Patrick, who had applied to the Territorial Auditor, William Clayton, for funds to pay the expenses of the Third District Court, such as witness fees, costs of arresting and boarding prisoners, serving notices on jurors, etc. As this was the first time that a United States Marshal in Utah had ever asked for Territorial funds for any purpose whatever, the Auditor, having grave doubts as to whether he would be justified in acceding to the request, concluded to lay the matter before Judge Snow, the Territorial Attorney-General. Mr. Clayton's reasons for not honoring the request of the U. S. Marshal were these: First, the Territorial law in relation to marshals and attorneys, approved March 3rd, 1852, provided for the election by the Legislature of a Marshal who should hold office for a certain term, unless sooner removed by the Legislative Assembly, or until his successor was elected and qualified, and said Marshal, before entering upon the duties of his office, was to give a bond, which, with approved securities, was to be filed with the Secretary of the Territory. A later law required the Marshal to file acceptable bonds with the Territorial Auditor. Marshal Patrick, not having been elected by the Legislature, not having filed any bond with the Auditor, and being in no position to do so, from the fact that the

Organic Act of Utah declared that no person holding a commission or appointment under the United States, except postmasters, should hold any office under the government of the Territory, Auditor Clayton did not see his way clear to issue a warrant in that officer's name on the Territorial Treasury. Second: The Legislature, as stated, in providing the contingent fund for the expenses of the District Courts, had named "John D. T. McAllister, Territorial Marshal," as the person to draw the same on vouchers to be approved by the Auditor. Attorney-General Snow, in advising Auditor Clayton upon the matter, stated that while the U. S. Marshal was amenable only to the power that appointed him, and could not therefore be required to file bonds with the Territorial Auditor, being already under bonds to the Judge of the District Court, yet neither would the Auditor be justified in paying out funds to any person not authorized by law to receive them. Mr. Clayton accordingly refused to pay over any Territorial funds to the United States Marshal. Later the Comptroller of the National Treasury refused to audit the bills for the expenses of the District Courts, except those incurred in the settlement of United States business. Thus came about a deadlock in the Third District Court at the beginning of the March term, 1871.

Judge McKean, at the opening of that term, ordered the grand and petit jurors to be called, and this being done, he read to them the following remarkable address:

Gentlemen of the grand and petit juries, I am not about to deliver a charge to you, but I am about to send you to your homes. It is right that you should know why. The reason is this: The proper officer of this court has no funds with which to pay you the per diem allowance which will be lawfully yours if you serve as jurors, nor has he the funds with which even to pay your board. I do not think it right to detain you here without compensation and at your own expense. You may like to know the cause of this anomalous state of affairs. You shall know. As the law now stands, the per diem allowance of the members, and other expenses, of the Legislative Assembly of this Territory, are paid out of the United States Treasury, while that Legislative Assembly is left to provide for paying the per diem allowance of jurors, and other expenses of the United States courts, while transacting the judicial business of the Territory. I am not commenting on the wisdom or unwisdom of such a policy, I am simply stating the fact. The

United States Treasury promptly pays the Legislative Assembly, but the high priesthood of the so-called "Church of Jesus Christ of Latter-day Saints," who control the Assembly and all the officers of, or who are elected by the Assembly, refuse to permit the expenses of the United States courts to be paid, unless they are allowed to control these courts. The high priesthood, acting through their agents, passed an ordinance requiring the ballots at elections to be numbered, and the same numbers to be written on the poll list opposite the names of those who vote the ballots; thus enabling them to ascertain how every elector votes and to keep a record of the same. Under this system none but the candidates of the high priesthood are chosen to the Assembly, and the presiding officers of the two houses of the Assembly are always high functionaries of the so-called "Church of Jesus Christ of Latter-day Saints." This Assembly has elected one of its favorites a marshal, and another a prosecuting attorney, and sent them into the United States courts, the former to summon the grand and petit jurors and serve process, the latter to take charge of criminal business before the grand and petit juries. But this district court has held, and the supreme court of the Territory has affirmed the rulings, that these so-called officers cannot be recognized by these courts, and that the United States attorney and the United States marshal, appointed by the President and confirmed by the Senate of the United States, are the proper officers of these courts. But the high priesthood of Utah hold different theories in regard to legal and governmental affairs. A few months since, in the presence of thousands of the people, and surrounded by the highest officials of the so-called "Church of Jesus Christ of Latter-day Saints," one of the high priesthood, and I heard him say: "There is not in the Federal Constitution the dotting of an i, nor the crossing of a t, giving any Federal officer any right to be in this Territory. Congress had no right to pass any act to organize this Territory, and the Organic Act is a relic of colonial barbarism. The Federal officials are usurpers, and have no business here."

Gentlemen of the grand and petit juries, I am a Federal official in Utah: I apologize to nobody for being here; I shall stay so long as I choose, or so long as the Government at Washington shall choose to have me here; and I shall venture the prediction that the day is not far in the future when the disloyal high priesthood of the so-called Church of Jesus Christ of Latter-day Saints shall bow to and obey the laws that are elsewhere respected, or else those laws will grind them to powder.

Gentlemen, one of the consequences of the decisions above referred to of the United States courts in Utah, is that already several men in high positions in the so-called Church of Jesus Christ of Latter-day Saints, have been indicted for high crimes, some of them for murder; another consequence is that enterprising men in large numbers, and capitalists of large wealth, have come into the Territory to embark in business pursuits, believing that even-handed justice would now be done them. It is an important fact, that while for about twenty years there has been a considerable population in this Territory, not only has not the great mineral wealth of Utah been developed, but the fact of its existence has, until recently, been concealed from the world outside of Utah. Now this mineral wealth is just beginning to be developed. And here, as everywhere among great business enterprises, there is much resort to the courts for the adjustment of conflicting interests. There are now on the docket of this court, awaiting trial, cases involving millions of dollars.

And now, gentlemen, the high priesthood of the so-called Church of Jesus Christ of Latter-day Saints, demand the right to select and summon the grand and petit jurors, who are to try all criminal and civil Territorial cases in this court; and demand that officers selected by them shall take charge of all such business in this court. And, gentlemen, because this court refuses to surrender itself into their hands, they refuse to pay your just allowance or to defray any of the expenses of this court. It is not just that you should be kept here at your own charges, and I will not keep you. But, gentlemen, do not misunderstand me. There is to be no surrender to unwarrantable exactions. The Government of the United States is not accustomed to being thwarted; and while those who represent it in Utah may be hindered, they will not be defeated. Let it not be doubted that after a pause in the path of duty, they will again resume their line of march with renewed energy. Gentlemen of the grand and petit juries, I thank you for your attendance, but will not detain you. You are adjourned *sine die*.

The anti-Mormons, who approved of all that was said or done against the Saints, as a matter of course applauded the sentiments of this address, as well as the actions of the Chief Justice which had preceded it. Many non-Mormons, however, strongly disapproved of Judge McKean's course, believing it to be unlawful and impolitic. Among the many journals which, throughout the land, and on both sides of the Atlantic, interestedly discussed the Utah situation at this time, was the New York *Herald*, which said: "Judge McKean has done in law what Governor Shaffer did in politics; but McKean has lived on and been humbled and defeated. * * * *

[He] refused the recognition of the Territorial Marshal and Attorney as Shaffer did the Territorial Nauvoo Legion and its Lieutenant-General. But the Judge comes to grief for the moment. He held his court with the United States officers; but the United States treasury would not honor the Marshal's drafts for the expenses of the court, virtually acknowledging that the Mormon interpretation of the question is correct. Here is the Chief Justice of the Territory of Utah, a gentleman of learning, ability and moral character, completely baffled and smarting terribly under his defeat. He had essayed to do something and had failed. Not for the want of physical support, for the United States army and all the volunteers that could be called for, would have rushed to sustain him, but he failed because he could not sustain himself as the law stood."


Nearer home, the Carson (Nevada) *Register* touched up the topic in the following spirited style: "The Sacramento *Record* is very indignant at the Mormons because Judge McKean of Utah adjourned the District Court for the reason that no compensation had been provided for jurors. The *Record* evidently does not understand the matter. McKean is a violent and unscrupulous judge, who appears to have more of a mission to stir up bad blood in Utah and raise a disturbance so as to justify the interference of the Federal Government, than to administer the law according to his oath and ability. In a case before him he ruled that the District Court was not a Territorial Court, but a United States Court—that there is no such court as a Territorial District Court. The decision was absurd, being in the teeth of all the statutes and decisions since the foundation of the Government. It was made in order to break down the Mormons, law or no law. If his court is a U. S. Court, of course the United States is bound to pay its expenses—the Territorial treasurer has no right to disburse money out of the Territorial treasury to pay jurors. Judge McKean was simply caught in one of his own traps. Like every man who deviates from trodden paths of precedent and law, he is liable to get scratched with legal briars, and to break his neck over unknown principles."

But a greater defeat and a far more serious failure than any so far suffered by the Chief Justice, was in store for him. Disconcerted but not disheartened by the temporary check to his unlawful proceedings, he pushed on in his reckless and arbitrary course until outraged Justice, who, though sightless, never fails to find and avenge herself upon her adversary, be he prisoner at the bar or magistrate upon the bench, turned upon and claimed him for her own.

CHAPTER XXI.

1871.

THE DEAD-LOCK BROKEN—MARSHAL PATRICK AND HIS PRIVATE PURSE TO THE RESCUE—
 JUDGE MCKEAN'S COURT PREPARES TO RESUME OPERATIONS—MARSHAL PATRICK VERSUS
 WARDEN ROCKWOOD—THE UTAH PENITENTIARY PASSES INTO THE HANDS OF THE UNITED
 STATES MARSHAL—THE PRISONER KILFOYLE—THE CASE OF PATRICK VERSUS ROCKWOOD
 AND MCALLISTER—PACKING A GRAND JURY—BRIGHAM YOUNG AND OTHER LEADING MORMONS
 ARRESTED—JUDGE MCKEAN'S REMARKABLE DECISION—"FEDERAL AUTHORITY VERSUS
 POLYGAMIC THEOCRACY"—LYING BY LIGHTNING—EDITOR SAWYER'S SLANDEROUS DISPATCHES
 TO THE NEW YORK "HERALD"—SENATOR MORTON AND "GRACE GREENWOOD" AT SALT
 LAKE CITY—UTAH'S RELIEF OFFERING TO THE SUFFERERS FROM THE CHICAGO FIRE—
 "ISHMAEL'S BROTHERLY LIFT TO ISAAC"—THE DESERET TELEGRAPH LINE REACHES
 PIOCHE—ISAAC'S BROTHERLY LIFT TO ISHMAEL.

 HE dead-lock in Judge McKean's court, caused by a lack of funds to carry on the prosecutions that had been planned, was only temporary. Money was obtained to pay the running expenses of the tribunal, and its machinery again began to move. Still, a delay of several months occurred, during which the court and its officers were comparatively idle. Some business was disposed of, however, by the other Judges in their respective districts.

The Territorial officers persisted in their refusal to pay over Territorial monies to persons not authorized by law to receive them, and the Comptroller of the National Treasury was equally firm in his resolve not to violate law and precedent by furnishing means to defray the cost of settling any but United States business in the courts. Judge McKean and his associates, it is true, had decided that theirs were United States courts, and pursuant to that theory had ruled out the Territorial Attorney-General and Marshal; so that the majority of the citizens were now saying with some irony: "Well, if they are United States Courts, let the United States pay

their expenses." But the Comptroller of the Treasury did not take that view of the case, and upon him, as a matter of course, the decisions of the Utah Judges were not binding. Even a personal visit of Judge Strickland to the nation's capital, to explain the situation and procure funds for the courts, failed of its object so far as the financial part was concerned. It was evident that until Congress or the Legislature should take some action in the premises, no public monies could be obtained. The Legislature had held its regular annual session during the winter of 1870-71, but its members, feeling outraged at the conduct of the Federal Judges in setting aside the laws that the Assembly had formerly enacted, and regarding the business about to be done in the District Courts as illegal, refused to be a party to such proceedings and declined to legislate for the relief of the situation. Hence the delay in the proceedings of the conspirators, who had planned to arraign Mormonism as a system, in the persons of its leaders, before the bar of Judge McKean's court.

The delay, however, as said, was only temporary. Money was procured from private sources, and proceedings in the Third Judicial District were resumed. One of the principal contributors to the prosecuting fund, which was designed only as a loan to the Government, or rather to the court, until the Nation's or the Territory's representatives should have legislated away the difficulty that had arisen, was U. S. Marshal Patrick, who advanced over eight thousand dollars to the cause. Such was the zeal of the missionary officials who carried on that memorable crusade.

It being known that means would be forthcoming with which to prosecute the trials of the accused and indicted Mormons, and it being also apparent just how those trials would end, with petit juries composed of the same kind of material as the Grand Jury which found the indictments, the next care of the conspirators was to get control of the Territorial Penitentiary. A movement in that direction was made by the U. S. Marshal in the summer of 1871. The doing away with the office of Warden of the Penitentiary—an office created by the Legislature—had doubtless been determined on

at the same time that the Territorial Marshal and Attorney-General were stripped of their authority. Unlike the proceedings in those cases, however, the action against the Warden was taken under cover of law. Congress, on the 10th of January, 1871, soon after the adjournment of the Utah Legislature, had passed an act, giving the U. S. Marshals in the Territories the authority to take charge of the penitentiaries that were the property of the United States.* This legislation had been supplemented by a communication from the Attorney-General at Washington directing Marshal Patrick, pursuant to other provision of the act in question, to take possession of any United States prisoners that might have been sentenced to the Utah Penitentiary, and giving him permission to contract with "the proper authorities" to board and take care of the convicts of the Territory. How the Marshal, after securing possession of the Penitentiary, construed the permission of the Attorney-General to contract for the board and keeping of Territorial prisoners, into a mandate requiring the representatives of the people to place these prisoners in his charge and pay him for taking care of them, will be set forth presently.

Not long after the passage of the act of Congress relating to the Penitentiary, Marshal Patrick informed the Warden, Colonel A. P. Rockwood, that he must vacate the position—one to which he had been elected by the recently adjourned Legislature—and surrender the institution to his care. Colonel Rockwood, who was under bonds to the Territory for the faithful discharge of the duties of his trust, took the view that the matter was not one to be thus peremptorily settled by a mere verbal order of the United States Marshal, and suggested to that official the propriety of his filing a written demand, to which he, the Warden, would respond. He also informed Marshal Patrick, upon that or a subsequent occasion, that as the Territory had furnished several thousand dollars for the erection of and repairs to the Penitentiary, and was therefore pecuniarily inter-

* The Utah Penitentiary stood upon unsurveyed public land, and had been jointly erected by the United States and the Territory.

ested therein, prior to vacating his office, if vacate it he must, he would prefer to have the matter properly adjudicated. But Marshal Patrick refused to listen to the proposition. He would not agree to any preliminaries, and about the 1st of August made another verbal demand upon Warden Rockwood for the surrender of the Penitentiary; at the same time threatening that if his demand were not immediately complied with, he would use force for the Warden's eviction. The latter protested verbally against such a proceeding, and also delivered to the Marshal a written protest reading as follows:

UTAH PENITENTIARY, WARDEN'S OFFICE,

August 2nd, 1871.

M. T. Patrick United States Marshal for Utah Territory:

SIR.—You having demanded of me the surrender of the Penitentiary of Utah to yourself as U. S. Marshal, and informed me that unless I complied with the demand you would take it by force, I have now to inform you that if you take the Penitentiary it will be under my protest, and that what you permit me to remove I will take away, and what you retain or do therein you will be held accountable for.

Yours respectfully,

A. P. ROCKWOOD, Warden of U. T. Penitentiary.

Ignoring the protest, Marshal Patrick at once took possession of the Penitentiary, from which Warden Rockwood then removed.

The Marshal next demanded the surrender of the Territorial convicts, claiming that under the instructions of the Attorney-General, which, as said, gave him permission to contract with "the proper authorities" for the keeping of such convicts, he was their rightful custodian. Marshal Patrick had made a contract, it appears, with Governor Woods, whom he assumed to be "the proper authority," to board and keep the Territorial prisoners at the rate of a dollar and a half each per day,—which *per diem*, of course, the people of the Territory, and not Governor Woods, were expected to pay.

The Warden, it seems, had made a practice, in order that the Penitentiary might be self-sustaining, of keeping the convicts employed at various labors in and around Salt Lake City, and for the

sake of convenience, and because the Penitentiary was not deemed a secure place of confinement, had arranged with the city jailer to provide them with quarters at the close of each day's work. That arrangement, made prior to, had continued after the Warden's eviction. Marshal Patrick's demand for the prisoners was again a verbal order, made this time by his deputy, D. R. Firman. Again the Warden, determined to guard every legal point in the case, protested against the taking of the prisoners without an order from a court of competent jurisdiction. Disregarding the protest, the deputy marshal seized upon all the convicts that he could find and conveyed them to the Penitentiary.

One prisoner, however, was missing; a man named Kilfoyle, who, in the Third District Court, during the administration of Chief Justice Wilson, had been convicted of murder under the Territorial statutes, and sentenced to a long term of imprisonment in the Penitentiary.* On Saturday, September 2nd, Marshal Patrick made a personal demand upon Colonel Rockwood for the convict Kilfoyle. He was asked by the Warden if he had any written authority from a court of competent jurisdiction. The answer being in the negative, the Warden handed the Marshal the following communication, written a day or two previously:

WARDEN'S OFFICE, SALT LAKE CITY,

August 31st, 1871, 6 p.m.

M. T. Patrick, United States Marshal for the Territory of Utah:

On my return to my office this evening, Mr. Hyde, the officer in charge of one of the convicts in my custody, informed me that you had called upon him, and demanded the surrender of said convict, also that he demanded your authority for so doing, and that you had no process from any court, on the subject, but it was the instruction or order of Governor Woods for you to take possession of the prisoner; whereupon Mr. Hyde informed you that he was not authorized to deliver him without an order of the court.

This is to inform you that I have an order of court, authorizing me to retain him until discharged by due process of law and it is my sworn duty so to do. Under these circumstances I have to inform you that I shall not deliver him to you, unless you present

* After serving out about two years of his term Kilfoyle was pardoned by Governor Woods.

an order from some court of competent jurisdiction in the premises, which will be a warrant to me to deliver him to you.

Such further action as you choose to take will be on your own responsibility.

Respectfully yours,

A. P. ROCKWOOD, Warden.

Marshal Patrick, after receiving the paper, stated that he would have Mr. Rockwood arrested for retaining the prisoner. "I have nothing more to say," replied the latter, "you have my answer to your demand." Colonel Patrick asked the Warden where the prisoner could be found, and was told that City Marshal J. D. T. McAllister had Kilfoyle in custody, and that William Hyde was the city jailer. Marshal Patrick then turned to Marshal McAllister, who was present—the scene of the occurrence being the court room at the City Hall—and demanded of him the prisoner. The City Marshal replied that he could only deliver him upon an order from Warden Rockwood. "Then I will try to take him," said Patrick excitedly, "I will endeavor to muster enough men to do it." He was here reminded that he had once turned over to the City Marshal for safe keeping a certain prisoner—the mail robber McKay—and Mr. McAllister argued that he would not then have been justified in surrendering his charge to any other person without an order from the U. S. Marshal; his position, he maintained, was now the same toward Warden Rockwood. But Marshal Patrick was too angry and excited to listen to argument. He left the hall, threatening to have Messrs. McAllister and Rockwood arrested and taken to Camp Douglas.

The threat of arrest was fulfilled, and thus came about the proceedings which will now be detailed—the preliminary hearing of the defendants, Warden Rockwood and City Marshal McAllister, charged with resisting the U. S. Marshal in the discharge of his duty. . The hearing took place before Associate Justice Hawley, in chambers, at Salt Lake City, beginning on the 4th and concluding on the 8th of September. The prosecution was conducted by R. N. Baskin, Esq., and Judge Morgan, of the law firm of McCurdy and Morgan, while

Messrs. Z. Snow, Thomas Fitch and S. A. Mann appeared for the defendants.

After the examination of Marshal Patrick, the only witness called—whose statement of facts in the case was conceded by counsel for the defense—Judge Morgan made the opening address. Its salient points, briefly summarized, were as follows: As the basis for a conviction he cited the act of Congress of January 10th, 1871, with other laws previously passed by that body, and certain enactments of the Utah Legislature. He claimed that the U. S. Marshal had been resisted in the discharge of his duty; that he and not the Warden was the proper person to have charge of the Penitentiary and its prisoners; that the power to appoint a Warden for that institution had never been possessed by the Legislature, as the Organic Act specified that all officers of that grade were, by and with the consent of the Legislature, to be appointed by the Governor and to receive their commissions from him; but that even if the Warden had been properly and lawfully in charge, he could only have continued to exercise his functions until Congress enacted the law that the prison should pass into the hands of the U. S. Marshal in conformity to the instructions, rules and regulations of the Attorney-General of the United States. Judge Morgan maintained that the Governor was the proper authority for the U. S. Marshal to contract with for the care of the Territorial prisoners, and that when Marshal Patrick, after making such a contract with Governor Woods, went to Warden Rockwood and demanded those prisoners, the defendants should have delivered up the convict Kilfoyle, the warrant of commitment in the hands of the Warden not being sufficient to justify the detention of the prisoner against the Marshal's demand. In conclusion, he said that it was for the court to decide, after hearing the case, whether or not the defendants should be held to answer for a violation of law; but there was another request that the prosecution had to make; it was that the court issue an order for the surrender of the prisoner Kilfoyle.

Hon. Thomas Fitch followed for the defense. He stated that it

seemed to him if it had been honestly desired by the prosecution to test the right of the U. S. Marshal, under the act of Congress and the instructions of the Attorney-General of the United States, to obtain and hold possession of the convict Kilfoyle, such test could have been better made on a writ of *habeas corpus*, alleging that the Warden of the Penitentiary held the prisoner illegally. This would have obviated the needless criminal prosecution now in progress. Mr. Fitch criticised the prosecution for proceeding under several laws instead of selecting one statute and claiming a conviction for some particular offense. He then called the court's attention to the language of the Congressional statute of April 30th, 1790, one of the laws cited by the prosecution: "If any person or persons, etc., shall obstruct, etc., any United States officer, etc., in serving, etc., any process or warrant, or any rule or order of any of the courts of the United States, or any other legal or judicial writ or process whatsoever, he shall be guilty of resisting an officer." It was this law, he claimed, that the defendants had violated, if they had violated any law at all, the Congressional statute of March 2nd, 1831, cited by the prosecution, being inapplicable to the present case, as was the law of Utah, also cited. That the defendants had not violated the act of 1790 was apparent from the fact that when the U. S. Marshal demanded the prisoner Kilfoyle of the Warden and City Marshal he was armed with no writ or process whatever. Had the Marshal come with an order of court the prisoner would have been delivered up to him, and the Warden so informed the Marshal at the time. *Habeas corpus*, Mr. Fitch insisted, would have been the better way to test the question, as being less calculated to create turbulence and ill-feeling than the method now pursued. "However," said he, addressing the Judge, "we have perhaps cause to congratulate ourselves that the services of your honor have been invoked at all; the defendant in this case has perhaps reason to be thankful that force and violence have not been resorted to. Perhaps we may congratulate ourselves that the guns of the fort have not been turned on the city, and the City Hall surrounded with cavalry,

infantry and artillery, and the Warden compelled at the point of the bayonet to surrender his prisoner.

Mr. Baskin :—That would have been my way to do it.

Mr. Fitch :—I presume that Mr. Baskin would have knocked the City Hall and City Jail down.

Mr. Baskin—I would that.

Mr. Fitch—The acting law officer of the United States informs us that he would have “let loose the dogs of war” had his advice been followed and his wishes consulted. And why were they not? Where was all the power which, with all the pomp and parade of war, once interfered to prevent by arms a peaceful parade of American citizens on the Fourth of July? Was it asleep? ashamed? or afraid?

Governor Woods—(who was seated on the right hand of Judge Hawley) Neither, my lord.

Mr. Fitch—I am assured by the Executive of the Territory of Utah, who honors us with his audience, and encourages the prosecution with approving smiles, that my surmises are incorrect. The Executive of the Territory perhaps agrees with the opinion once expressed by the present President of the United States, that the Justices of the Supreme Court are “members of the Governor’s staff,” and who designs possibly to give your Honor, as his staff officer, the benefit of his protecting presence, while at the same time he stands ready to answer questions of defendant’s counsel whether he be the party interrogated or no—

The Court—This discussion is becoming exciting and I shall not permit further remarks outside of the case.

Mr. Fitch—I beg your honor’s pardon, but I have not traveled out of the proper line of argument, except to comment upon interruptions made irregularly by Mr. Baskin, and improperly by Governor Woods. Since, then, we are to be tried before being punished, I will now proceed to the consideration of the important questions involved.

Mr. Fitch then went on to show that the act of Congress of

January, 1871, provided for the taking from the custody of the Territorial Wardens the penitentiaries which were rightfully the property of the United States, having been paid for by the United States, and that the instruction of the United States Attorney-General to the United States Marshal of Utah that he might contract with "the proper authority" for the care and keeping of the Territorial prisoners, did not mean that he must do it,—said instruction not being mandatory, and an option being given to the Territory as to whether it would or would not have its convicts imprisoned in the United States penitentiary. Congress had not the right to pass an act compelling Territorial convicts to be kept by the United States Marshal in a United States prison, and requiring the cost of keeping them to be paid out of the Territorial treasury. "To suppose that the United States courts will sustain such a doctrine," said Mr. Fitch "is to doubt their intelligence; to suppose that the Congress of the United States intended such a doctrine, would be to suspect this government of monstrous tyranny and injustice. If your honor please, our government can never have aught but respectful and loyal words from me. It is a great, a free and a magnanimous government, although sometimes represented by small, mean, contemptible men." As to the contract in question, Mr. Fitch showed that the Attorney-General did not state that the Governor was "the proper authority" in the premises. The fact is that the Attorney-General did not know who the proper authority was, but left that for the Marshal to ascertain. The language of the communication was simply this: "You will cause all United States convicts who have been or may be hereafter convicted and sentenced to imprisonment, to be confined therein, and inform the proper Territorial authorities that you will receive therein all persons who have been convicted and sentenced for the violation of Territorial laws, and maintain them therein at the rate of a dollar and a half per day." * * *

"A contract in writing should be entered into with the Governor or other proper authority." Mr. Fitch argued that if the Attorney-General had given an opinion that the Governor was the proper

authority for the Marshal to contract with, that it would not bind the Territory, or be a rule of decision for a court; but he had given no such opinion. The U. S. Marshal had taken no steps to ascertain who were "the proper authorities," but had gone to Governor Woods, who, instead of informing the Marshal that he was merely the Executive of the Territory, having no power outside of the law, and being without authority to bind the people of Utah to pay one dime on any contract that he might make, had entered into the contract which was here offered in evidence. Said Mr. Fitch in conclusion: "That paper signed by His Excellency, Governor Woods, by which he agrees that the Territory of Utah shall pay a certain sum of money to the United States Marshal, is entirely worthless for the purpose of binding the Territory of Utah, and makes as little impression on her treasury as the sere leaves of the locust make when they fall upon the stony street. * * *

Under the act of Congress the Marshal of the United States has no more right to the custody of Territorial prisoners without the consent of the people of this Territory, in some way expressed, than he has to the custody of persons not charged with crime at all."

The closing argument was made by Mr. Baskin. He cited the act of Congress of January, 1871, and argued that it empowered the U. S. Marshal not only to take possession of the Utah Penitentiary, but clothed him with all the authority of a prison keeper. The power was with the Marshal to construe the word "may," in the act referred to, as mandatory; the defense claimed it to be merely directory; but who had the discretionary power to decide the matter? The U. S. Attorney-General had that power, and it was under his instructions that the Marshal had acted. The mittimus did not order A. P. Rockwood to keep the prisoner Kilfoyle in custody, but ordered the Warden of the Penitentiary to do so, and the act of Congress in question constituted the U. S. Marshal the Warden of the Penitentiary. When he, an executive officer of the United States, had made a demand for the prisoner, he had been asked for an order of court. The mittimus itself was such an order. Mr.

Baskin read the Territorial statutes relating to the hiring out of convicts on public and private works, and argued that such laws opened a door for official corruption. Congress had doubtless had its attention drawn to the matter, and it may have caused that body to pass the act taking from the Warden the control of the Penitentiary and the custody of prisoners. He also read the local statutes relative to the course to be pursued by officers in search of persons secreted, and remarked with unction: "I like to play back the Utah laws upon these gentlemen." He claimed that the U. S. Marshal was recreant to his duty, when refusal was made to surrender the prisoner Kilfoyle, in not summoning a posse of men and leveling the city prison to the ground. The Marshal, he said, had the right to take the prisoner by force and he should have done so. It was not necessary for him to obtain a writ of *habeas corpus*; for the mittimus was an order of court sufficient. "That prison," Mr. Baskin repeated, "should have been leveled to the ground, if it had taken the whole forces of the Government to do it." The case showed a wanton resistance to a United States officer in the discharge of his duty, attended with circumstances of a most aggravated description. In closing he requested that as the mittimus was public property it should be delivered to the U. S. Marshal, that he might take such action upon it as he deemed proper.

At the conclusion of the arguments the court adjourned until the day following, when Judge Hawley rendered his decision. He held that while sitting as a committing magistrate he had not the authority of a court except for the purpose of such hearing and of determining the probable guilt of the defendants. He must therefore deny the request of the prosecution for an order upon the defendants to deliver the convict Kilfoyle to the U. S. Marshal. But that officer would be left to exercise his powers in that respect in conformity to his rights under the laws of Congress and the Territorial Legislature. The Judge expressed the opinion that the U. S. Marshal had the right *ex-officio* to the custody of the prisoner, and that Warden Rockwood and Marshal McAllister had no right to

refuse to surrender him on Colonel Patrick's demand. His Honor also thought that Governor Woods had the authority to make a contract binding the Territory of Utah. He concluded by ordering that Messrs. Rockwood and McAllister be held to bail in the sum of one thousand dollars each, to answer before the Grand Jury.

On the morning after Judge Hawley's decision, Marshal Patrick proceeded to the city jail and made a demand upon the keeper for the person of the convict Kilfoyle. He was informed that Warden Rockwood had him upon his premises. Colonel Patrick accordingly repaired to the place indicated, where he found and took possession of the prisoner.

The Utah Penitentiary was now in the hands of the United States Marshal, the Territory being summarily deprived of the amount of means it had expended in its erection. Next upon the program was the formation of the Grand and Petit juries for the term of court about to begin in the Third Judicial District.

The regular fall term of this tribunal for the year 1871, opened on Monday, September 18th, Chief Justice McKean presiding. The court was held, as usual, in Faust's Hall, Second South Street, Salt Lake City. In the empaneling of the Grand Jury a slight attempt at a show of fairness, so slight, however, that the show deceived no one, was made by the U. S. Marshal. A few—seven only—of the jurors summoned were Mormons, among them Apostle George Q. Cannon, General H. B. Clawson and James Townsend, Esq. The fact that Mr. Cannon was an editor—the tripod of the *Deseret News* still claiming him—and therefore legally exempt from jury service, did not prevent his receiving a summons, a verbal one in lieu of the written notice required by law, to be present at the opening of the court. Not wishing to take advantage of these irregularities, and perhaps deeming it dangerous to disobey any sort of summons, however illegal, from officials whose arbitrary will was so often substituted for law, he with his confreres, Messrs. Clawson and Townsend, put in a punctual appearance at the time and place appointed. The fact that Editor Cannon's being called was a mere

matter of form, and that it was no part of the plan of the crusaders to put any Mormon upon the Grand Jury, may have partly accounted for the laxity of legal procedure in his case. So far at variance was it from that plan that Apostle Cannon should be accepted, that he was actually one of the predestined victims of the prosecution, either indicted already by the Grand Jury of the previous term, or about to be by the inquisitorial body then forming. In short, the few Mormons had been summoned simply that the prosecution might have the opportunity to question and challenge them.

Just before the process of empaneling began, the entire array of jurors was challenged by Judge Hoge, Mr. Fitch, Major Hempstead, Mr. Miner and other attorneys of the court, on the ground that they had not been summoned according to law. This point, as we have seen, had already been ruled upon by Judge McKean, previous to the Englebrecht trial. It was not in the hope that His Honor had changed his mind upon the subject that the attorneys now presented their challenge, but in order to save the point for some of their clients whose cases were to come before the court, in the event of decisions going against them. The challenge having been filed, the empaneling of the Grand Jury was proceeded with. First, several non-Mormons were successively interrogated by the Prosecuting Attorney. The formula of questions and answers in their cases was as follows:

Question—Are you a citizen of the United States?

Answer—Yes.

Q.—Are you a resident of this Territory?

A.—Yes.

Q.—Are you a tax-payer?

A.—Yes.

Prosecuting Attorney.—You'll do. Call the next name.

When the name of George Q. Cannon—the first Mormon on the list—was reached, that gentleman was put through the following course of examination:

Q.—Are you a citizen of the United States?

A.—I am.

Q.—How long have you been a resident of this Territory?

A.—Twenty-four years, though I have not resided continuously in the Territory for that period.

Q.—Are you a member of the Church of Jesus Christ of Latter-day Saints?

A.—I am.

Q.—Is not polygamy one of the fundamental doctrines of that Church?

A.—Plurality of wives is a doctrine of the Church.

Q.—Do you believe the revelation which teaches this doctrine to the Church to be from God and binding upon His people?

A.—I do.

Q.—Which do you believe ought to be obeyed, the revelation or the law?

A.—I do not think the question a proper one. When a case arises in which they come in conflict, then I shall be able to decide.

Q.—Do you not think the revelation superior to law?

A.—My views upon this are known through my public utterances.

Q.—Do you believe that a man, in marrying more than one wife, commits adultery?

A.—I do not if he marries them according to the revelation.

Q.—You do not believe this to be adultery?

A.—I do not.

The Prosecuting Attorney here turned to the Judge and submitted that the juror ought to be excused. It was the intention, he said, to endeavor to indict a man who had more than one wife, for adultery, and it was probable that several cases of that kind would come before the Grand Jury.

The Judge in his blandest manner now addressed the editor of the *News*, and asked: “Did I understand the gentleman to say that he did not believe it to be adultery for a man to have more than one wife at a time, under the revelation referred to?”

Editor Cannon.—“Your Honor understood me correctly.”

The bland look disappeared and an aspect of severity overspread the face of the Judge, as he informed the juror that he had decided that a certain man who had been proved to have three wives had committed adultery under the laws of the Territory. That decision, he said, was law until overruled, and as the juror did not agree with the decision, he could not be accepted. Mr. Cannon was consequently excused. General Clawson and Mr. Townsend were also challenged and excused for similar reasons. The remainder of the jurors present, being non-Mormons, were accepted in a lump. Said the Prosecuting Attorney to them: "If there are any of you who believe that a man who has more than one wife does not commit adultery, stand up." No one arose, and all were accordingly accepted. Twice during the proceedings, once prior to, and again after the beginning of the process of empaneling, the U. S. Marshal, armed with an open venire, sallied into the streets to pick up talesmen.

"Are you citizens of the United States?" was asked of each man in the latest lot brought in.

"Yes," was the answer.

"Are you members of the Mormon Church?"

"No."

"You'll do," said the interrogator, and finally the Grand Jury was complete.

No; not quite. A little surprise awaited the court, and it was now sprung upon Judge, Prosecutor and Marshal by Mr. Miner, one of the attorneys present. Arising and addressing the court, that gentleman cited a recent law of Congress which made it a cause of challenge if a man, summoned to sit as a juror, had been so summoned or had attended court in that capacity within two years previously. Judge McKean, who evidently was not familiar with this law, asked to have it read. Mr. Miner read it accordingly. It being an act of Congress, and not one of the Territorial Legislature, Judge McKean deemed it prudent to respect its provisions. Consequently the accepted jurors were all re-examined with a view to ascertain which

of them, if any, were disqualified from serving. Ten out of the twenty-three were found to have acted as jurors within two years, and several of them upon the Grand Jury of the previous term. This humiliating disclosure—so illustrative of the lawless and reckless methods of the crusaders—was too much for the Judge, who, after causing another open venire to issue, ordered an adjournment until 10 o'clock next morning. The packing of the Grand Jury—for packing is the only word that properly describes the process—was finally completed, not a Mormon finding place upon the panel, and the work of grinding out indictments was at once begun.

The main reason why Marshal Patrick had so strenuously insisted upon being the custodian, not only of United States prisoners, but of Territorial convicts as well, now became apparent. Judge McKean and Prosecuting Attorney Baskin had both touched upon the point during the empaneling of the Grand Jury; the Attorney when he submitted to the court the advisability of excusing Apostle Cannon from acting as a juror, on the ground that one or more men having a plurality of wives were to be indicted for adultery, and the Judge when he stated to the Apostle that he had already held that a man who had more than one wife had committed adultery under the laws of Utah. It was the purpose, in short, to indict and try Brigham Young and other leading Mormons, not for polygamy, under the Congressional act of 1862, but for adultery, or at least lewd and lascivious cohabitation, under the laws of the Territory. Their conviction under those laws, and their sentence to the Penitentiary, would of course make them prisoners of the Territory, and consequently, unless Marshal Patrick had taken the action that he did, would have placed them in Warden Rockwood's custody instead of his own. It is not to be supposed that the U. S. Marshal designed to mistreat them, though his regime would probably have been more rigorous than that of his rival, but that he considered it would be a feather in his cap to have Brigham Young and several Mormon Apostles under lock and key, and the key in his own pocket, is more than probable. How far the question of the per

diem to be paid by the Territory for the keeping of its prisoners, according to the contract between Governor Woods and Marshal Patrick, influenced the action of the latter; we leave the reader to surmise.

The motive of the Prosecuting Attorney in proceeding under the laws of Utah, enacted by the Mormons themselves, instead of under the act of Congress, passed for the especial purpose of meeting polygamous cases, was probably this: that the law of the Territory against adultery and other sexual sins was much more severe than the act of Congress against the practice of polygamy. The maximum punishment for adultery was imprisonment for twenty years and a fine of one thousand dollars, while the punishment for polygamy was limited to five years imprisonment and a fine of five hundred dollars. Another consideration, which doubtless had weight with the crusaders, was the fact that by prosecuting under the Territorial law, which was passed in 1852, instead of the Congressional statute enacted in 1862, there was furnished a period of ten additional years in which to find indictments, there being no statute of limitations. Another reason still—and one that rendered the situation of convicted Mormons in such cases almost hopeless—was the fact that under that law no appeal could be taken from the judgment of the courts in Utah to the Supreme Court of the United States. Well might the Hon. Thomas Fitch exclaim, in his speech before the Constitutional Convention: “I say with sorrow and humiliation that the Mormon charged with crime who now walks into the courts of his country, goes not to his deliverance but to his doom.”

“I like to play back the Utah laws upon these gentlemen,” Mr. Baskin had observed during the preliminary proceedings in the case of Patrick *versus* Rockwood and McAllister. No one doubted the statement when made, and still less were any inclined to doubt it after he and his co-conspirators had shown their full hand and their malicious purpose was made apparent. Moreover, the Territorial law was, by Judge McKean’s ruling, made applicable to existing

polygamous relationships that were untouched by the law of Congress.

The section of the statute under which it was proposed to prosecute the Mormon leaders, some of whom, sitting as legislators, had helped to frame this very enactment, which was about to be turned and twisted to their injury, were these:

SEC. 32.—Every person who commits the crime of adultery, shall be punished by imprisonment not exceeding twenty years, and not less than three years, or by fine not exceeding one thousand dollars, and not less than three hundred dollars; or by both fine and imprisonment at the discretion of the court. And when the crime is committed between parties, any one of whom is married, both are guilty of adultery, and shall be punished accordingly. No prosecution for adultery can be commenced but on the complaint of the husband or wife.

SEC. 33.—If any man or woman not being married to each other, lewdly and lasciviously associate, and cohabit together, or if any man or woman, married or unmarried, is guilty of open and gross lewdness, and designedly make any open and indecent, or obscene exposure of his or her person, or of the person of another, every such person so offending shall be punished by imprisonment not exceeding ten years, and not less than six months, and a fine of not more than one thousand dollars, and not less than one hundred dollars, or both, at the discretion of the court.

To say that the Mormon law-makers, in enacting this statute, and that Brigham Young in approving it as Governor, never intended it to apply to plural marriage, which they considered a virtue and not a crime, would be a superfluous statement. To affirm that the action of the U. S. Attorney, in claiming, and that of Judge McKean in allowing, that this law had been violated by Brigham Young and other Mormons in their marital relations with their plural wives, met with very little favor among high-minded and honorable members of the legal profession, is but to state what many of our readers already know. To have prosecuted the defendants under the anti-polygamy act of Congress, which, as said, was passed for the especial purpose of meeting polygamy cases, would have been deemed perfectly proper by non-Mormons everywhere, and the Mormons themselves would have had far less cause for complaint; but to spring a trap upon them, and distort one of their own enactments, which had no real bearing in the premises, for the purpose of

ensnaring them, was looked upon by the American public as a contemptible trick, an arrant piece of pettifoggery, unworthy the representatives of a great and enlightened government. It is a recognized principle of jurisprudence that courts, in interpreting a law, should be governed by the manifest intent of the law makers. The intent of the Utah Legislature in this case was well known both to Judge McKean and to Prosecuting Attorney Baskin, and their deliberate attempt to wrest the law from its purpose and turn it in another direction, to enable them to multiply indictments and inflict heavier penalties than Congress had authorized or justice would warrant, thus wreaking partisan spite upon their religious and political opponents arraigned as prisoners at the bar, was as dishonest as it was despicable.

It was late in the afternoon of Monday, October 2nd, 1871, that a warrant of arrest was served by U. S. Marshal Patrick upon President Brigham Young, at his residence in Salt Lake City. He was charged with lewd and lascivious cohabitation with his plural wives. The charge of adultery was not preferred, doubtless for the reason that none of the President's wives had lodged against him the complaint required by law before a prosecution for that offense could be instituted. Having been ill for several days, and at the time of his arrest being unable to leave the house, he was permitted by the kindness of the Marshal, who performed his duty in this instance in a delicate and gentlemanly manner, to remain in his own home, a deputy being left in charge of the distinguished prisoner.*

* In September of this year U. S. Marshal Patrick, doubtless with the approval of the Governor, tried the experiment of using regular troops as a *posse* for the service of warrants of arrest on persons indicted by the Grand Jury. There was much public indignation at this course, especially when the military made boisterous night raids at Provo and Springville on September 10th and 12th. At the latter place the house of a Mr. Johnson was searched at 2 o'clock in the morning; and at Provo the homes of H. L. Davis and J. J. Baum were similarly disturbed at midnight, and several shots fired at Mr. Baum as he was leaving the premises. He was wanted for shooting Richard Brown, on December 28th, 1870. Brown had seduced Baum's niece and refused to marry her. He also had threatened to kill Baum. The latter was arrested at the time, and had been acquitted on the ground of justifiable homicide, but an effort was being made to prosecute him further.



Engr. by E. Williams S. Fr. N.Y.

Henry Dimwoley

Geo. L. Brown S. Fr.

Next morning Hon. Thomas Fitch, one of the counsel for President Young, made application in the Third District Court for an extension of time until the following Monday, to enable the defense to prepare for trial. He also requested, in view of the President's illness and consequent inability to appear in person before the court, that he be admitted to bail, as he was now virtually in the custody of the U. S. Marshal.

Mr. Maxwell, the assistant prosecutor, brusquely objected to the taking of bail prior to a plea being entered by the defendant. "The people," said he with savage emphasis, "demand that Brigham Young shall appear in court the same as anybody else!"

Judge McKean declined to admit President Young to bail, but granted the extension of time asked by his counsel. The Judge also stated that he was not aware that President Young was in charge of either the U. S. Marshal or his deputies, but that if such were the case, the Marshals should be withdrawn and the defendant left practically under his own recognizances to appear in court and answer to the indictment as soon as he was able.

In the afternoon of the same day—Tuesday, October 3rd—Hon. Daniel H. Wells, Mayor of Salt Lake City, was arrested by Marshal Patrick, charged, like President Young, with "lewd and lascivious cohabitation" with his plural wives. He immediately went before Judge McKean and was admitted to bail in the sum of five thousand dollars, Messrs. Thomas Taylor, Henry Dinwoodey and David Day being his bondsmen. Regarding this arrest, *The Review*, a local Gentile paper, remarked: "Daniel H. Wells in former days took the part of Jesus in the 'Endowment House.' Upon hearing this, a friend of ours wants to know when he is to be crucified. Can any of our friends enlighten the anxious enquirer?" To which the Salt Lake *Herald* wittily retorted: "On Monday next, between Baskin and McKean."

Saturday, October 7th, Apostle George Q. Cannon was placed under arrest by the U. S. Marshal, the charges against him being similar to those made in the cases of President Young and Mayor

Wells. Apostles John Taylor and Wilford Woodruff became his sureties in the sum of five thousand dollars. As a show of impartiality, Mr. Henry W. Lawrence, a Godbeite polygamist, who about this time separated from his plural wives, was placed under arrest on the same charge and liberated on bail in the same amount.

Proceedings in the case of the People *versus* Brigham Young, Sr., began on Monday afternoon October 9th, 1871, before Chief Justice McKean. Messrs. Baskin and Maxwell appeared for "the people," and Messrs. Fitch and Mann, Hempstead and Kirkpatrick, Hoge and Snow, Aurelius Miner, Hosea Stout and Le Grand Young for the defendant. Mr. Fitch opened the proceedings by stating that the defendant was now in court, and asking that he be admitted to bail prior to the filing of such pleas as his counsel had to make in the case. The Judge thereupon ordered that President Young be admitted to bail in the sum of five thousand dollars, which was accordingly done, Messrs. William Jennings and John Sharp becoming his sureties. Mr. Fitch then read the following plea in abatement:

THE TERRITORY OF UTAH. IN THE THIRD JUDICIAL DISTRICT COURT OF SAID TERRITORY,
REGULAR SEPTEMBER TERM THEREOF, A. D. 1871. HON. JAMES B. MCKEAN, JUDGE.

THE PEOPLE OF THE UNITED STATES }
IN THE TERRITORY OF UTAH, }
AGAINST BRIGHAM YOUNG, SEN. }

And the said Brigham Young, who is complained of for the crime of openly and notoriously, lewdly and lasciviously associating and cohabiting with women not being married to them, in his own proper person cometh into court and having heard the complaint read says: That he can only be indicted for the crime aforesaid by a Grand Jury duly selected, drawn, summoned and impaneled according to the laws of the Territory of Utah.

That said Grand Jury, by whom said pretended indictment was found, was not drawn according to said law; but an open venire was issued by order of Hon. James B. McKean, Judge of said Third District Court, which order was in words and figures as follows; to wit:

To William S. Walker, Clerk of the Third District Court in and for the Territory of Utah:

SIR:—It is hereby ordered that you issue to the United States Marshal for the said

Territory, a venire, commanding him to summon, from the body of the Third Judicial District of the said Territory, eighteen good and lawful men to act as Petit Jurors, and twenty-three good and lawful men to act as Grand Jurors, at a session or term of the said court, to be held in the Court Room in Salt Lake City, on Monday, the 18th day of September instant; and that you make the same returnable then and there at 10 o'clock in the forenoon of that day, and thereof fail not.

Witness my hand at Salt Lake City, this 11th day of September, A. D. 1871.

JAS. B. MCKEAN,

Judge of the Third District Court.

Which said order was endorsed as follows: Order received and venire issued Sep. 11th, 1871.

WM. S. WALKER, Clerk.

That said William S. Walker, Clerk of said court, issued a venire on said order in words and figures as follows, viz.:

DISTRICT COURT, THIRD JUDICIAL DISTRICT, UTAH TERRITORY, REGULAR SEPTEMBER TERM, 1871.

HON. JAMES B. MCKEAN, JUDGE.

TERRITORY OF UTAH, }
County of Salt Lake. } ss.

To M. T. Patrick, United States Marshal for the Territory of Utah, Greeting:

You are hereby commanded to summon twenty-three good and lawful men, residents of the Third Judicial District, to be and appear at the United States Court, in Salt Lake City, on Monday, the 18th day of September inst., at 10 o'clock a. m., to serve as Grand Jurors for the Third Judicial District of the Territory of Utah, thereof fail not, and make due return of this venire with the panel thereon endorsed.

Witness the Honorable James B. McKean, Judge, and the seal of said Court at Salt Lake City, this 11th day of September, 1871.

WILLIAM S. WALKER, Clerk.

That said venire was delivered to one M. T. Patrick, United States Marshal, who selected and summoned the following named jurors, by virtue of said writ of venire, the return of said Marshal being in words and figures, to wit: I hereby return the within venire, having summoned, from the body of the said District of Utah, the following named persons to serve as Grand Jurors:

| | | |
|-----------------------|----------------------|-----------------------|
| 1 Sharp Walker | 9 Edwin D. Woolley | 17 James Mathews |
| 2 Samuel Kahn | 10 Alfred S. Gould | 18 Frank Hurlburt |
| 3 Milton Orr | 11 Frank D. Clift | 19 Samuel Howe |
| 4 Chauncey C. Nichols | 12 J. T. Miller | 20 Charles Newbaldt |
| 5 Charles L. Dahler | 13 G. L. T. Harrison | 21 Nelson Lawrence |
| 6 Hiram B. Clawson | 14 George Q. Cannon | 22 Charles Trowbridge |
| 7 Elias B. Zabriskie | 15 Christopher Diehl | 23 Edward Ried |
| 8 James Townsend | 16 James P. Page | |

M. T. PATRICK, U. S. Marshal.

Sept. 18th, 1871.

That said jurors were called by the Clerk of said District Court, on the 18th day of September, 1871, in open Court, and the following persons answered to their names, viz.: Sharp S. Walker, J. T. Miller, Alfred S. Gould, J. Milton Orr, Elias B. Zabriskie, George Q. Cannon, Hiram B. Clawson, James P. Page, Frank Hurlburt, Charles Newbaldt, Samuel Kahn, Chauncey C. Nichols, E. L. T. Harrison, James Townsend, Christopher Diehl, James Mathewson, Samuel Howe, Nelson Lawrence, Edward Ried.

That the following were excused: Sharp S. Walker, Samuel Kahn, J. Milton Orr, Elias B. Zabriskie, Christopher Diehl, Nelson Lawrence, Edward Ried, Alfred S. Gould, George Q. Cannon, James Townsend, Hiram B. Clawson.

It was then ordered by the Court that talesmen be summoned to fill out said jury, when the following persons were selected and summoned promiscuously from the body of the County by the United States Marshal, as talesmen, and answered in Court, viz.: Charles Read, Hugh White, James M. Day, Wm. Johns, John W. Morehouse, J. B. Meader, John M. Wallace, Geo. W. Bostwick, Clayton L. Haynes, Edward Preble, William S. Woodhull, Alphonzo F. Tilden, Jacob Engler, Ezra C. Chase, James W. Hamilton, Thomas Carter, John Cunningham.

The following talesmen were then excused: George W. Bostwick, Thomas Carter and John Cunningham.

The following persons were impaneled, sworn and charged as a grand jury, to wit: Samuel Howe, Chauncey C. Nichols, J. T. Miller, E. L. T. Harrison, James P. Page, James Mathewson, Frank Hurlburt, Charles Newbaldt, Clayton L. Haynes, Hugh White, Edward Preble, James M. Day, William L. Woodhull, William M. Johns, Alphonzo F. Tilden, John W. Morehouse, Jacob Engler, J. B. Meader, Ezra C. Chase, John M. Wallace, Charles Read and James W. Hamilton, and constituted the Grand Jury, by whom the indictment was found and presented in this case.

That said Jurors were selected by the United States Marshal, aforesaid, instead of being selected in accordance with the Territorial laws.

That they were summoned by the said United States Marshal, and not by either the Territorial Marshal or Sheriff, as required by said Territorial laws.

That said jurors and talesmen were selected, chosen, designated and called by said United States Marshal promiscuously, and not by any drawing, or ballot, as prescribed by the laws of said Territory, and in contravention of each and every section of the laws of said Territory, prescribing the manner of drawing, selecting and obtaining jurors to serve in the District Courts of said Territory.

That said jurors and talesmen were not selected, summoned or called in accordance with the provisions of any Act of Congress of the United States, or in accordance with the practice or rules of any Court of the United States, or in accordance with any rules of this court.

That one Charles Read had been summoned, attended and served as a juror in this court in the September term, A. D. 1870, and within two years prior to the time said Grand Jury, by whom the indictment in this case was found, was impaneled—he, the said Charles Read, being the same person above named, and who was impaneled, sworn and served on the said Grand Jury, by whom the indictment herein was presented, contrary to the Act of Congress, entitled, “An Act to provide for the compensation of

Grand and Petit Jurors in the Circuit and District Courts of the United States and for other purposes," approved July 5th, 1870.

That one James Mathewson, and one Elias L. T. Harrison, were impaneled and sworn, and acted as members of the Grand Jury in finding the indictment in this case; and that said James Mathewson and Elias L. T. Harrison were never selected or summoned to serve on said Grand Jury, by any one or in any manner, as appears from the records in this court.

That one George R. Maxwell was present before said Grand Jury at the time of finding said indictment. That said George R. Maxwell was only present in the capacity of Deputy United States Attorney, as appears by the records of this court, the legality of which appointment the said affiant denies, was not sworn, or otherwise present as a witness, and that he was an unauthorized person and was illegally before said Grand Jury.

That at the time of the impaneling of said Grand Jury this defendant was not under arrest, in custody or on bail, or was he charged with crime of any kind prior to the finding of said indictment; nor did he have any opportunity at any earlier date than the present, to interpose any challenge to said Grand Jury, or either of said jurors.

And this the said Brigham Young is ready to verify.

Wherefore he prays judgment of said indictment, and that the same may be quashed.

BRIGHAM YOUNG.

TERRITORY OF UTAH, }
County of Salt Lake. } ss.

Brigham Young, being duly sworn, says he is the defendant in the above case. That he has read the above and foregoing plea, and knows the contents thereof, and that the same is true in substance and matters of fact, to the best of his knowledge and belief.

BRIGHAM YOUNG.

Subscribed and sworn to before me, this 9th day of October, A. D. 1871.

WILLIAM S. WALKER, Clerk.

The reading having concluded, the Prosecuting Attorney announced his intention of entering a demurrer to the plea, which position was sustained by the court. To this ruling the defense gave notice of exception. Major Hempstead then made a motion to quash the indictment on the ground that it contained sixteen counts, all for the same offense, which he claimed was contrary to established practice. He argued that the prosecution must either elect one of the charges upon which they would proceed, or that the court must quash the indictment. The counsel for the prosecution opposed this position, and arguments

pro and con continued until the court adjourned, and during the two days following.*

Finally on October 12th, Judge McKean rendered his decision, portions of which are here presented:

Although the question of selecting, summoning and empaneling the grand jury which presented this indictment, is not involved in the motion before the court, one of the counsel for the defendant saw fit, in his remarks, to denounce the jury as having been selected and empaneled in a manner unprecedented either in Europe or America. Had the counsel first investigated this question, he would have found that when Brigham Young was Governor of the Territory, and his selected friend, Judge Snow, now one of his counsel, sat both upon the district and the supreme bench of the Territory, grand jurors were for years selected, summoned and empaneled precisely as they now are. And the counsel would also have found that in repeated cases United States judges, even within the States, have sometimes found the States statutes inapplicable, and have ordered juries to be procured substantially as they are procured in this Territory.

But all this has nothing to do with the motion before the court, which is to quash the indictment—not the grand jury that found it. Let us return, therefore, to the record.

One of the counsel for the defendant has rightly said, that the court should render such decision upon this motion as shall subserve the interests of the public and the rights of the defendant. What are those interests? What are those rights?

* Said the Salt Lake *Tribune*, editorially, on the morning of October 10th. "It was a decidedly novel spectacle yesterday afternoon to see the 'Lion of the Lord' sitting in the court room waiting for the coming of his earthly judge to try him. * * * There can be no doubt that the President of the Church of Jesus Christ of Latter-day Saints made several very good points yesterday. His being there a quarter of an hour before Judge McKean, patiently waiting his coming, was very wisely arranged and looked well on an occasion which opens a series of circumstances destined to form a chapter of history. His appearance in court, too—his quietude, and an altogether seeming absence of a spirit chafing with rage at being brought to trial, evidently made a good impression. If there was any malice against him before, the sight of Brigham Young, at least practically acknowledging the authority of the United States to try him, even for the highest crimes known in the law, and the respectful bearing which he put on, disarmed much of that malice. * * * It is evident that President Young thus coming into court, and his resolution to abide every trial, and contest the charges brought against him, constitutionally through his counsel, was the very wisest course he could have taken. It will divide people in his favor and bring many of the Gentiles to the help of Israel, even as it has already brought two of their lawyers to the defense of the prophet. Perhaps there was more respect and sympathy felt for Brigham Young when he left the court room, feeble and tottering from his recent illness, having respectfully sat in the presence of his judge three-quarters of an hour after bail had been taken, than ever there was before in the minds of the same men."

* * * * *

It is unquestionably to the interests of the public that a man indicted for crime, if guilty, should be convicted ; if innocent, acquitted ; and] that, too, with as little delay as may be consistent with the rights of the accused, and with those safe-guards which experience has approved. But will it promote the interests and rights either of the public or of an accused citizen, to have many indictments and many trials for offenses of the same class, rather than one indictment and one trial covering the whole ? The court is bound to presume that the evidence before the grand jury authorized, nay required, the sixteen charges contained in this indictment. If now the court should grant the motion of the defendant, and quash the indictment because it contained these sixteen counts, the grand jury, which is not yet discharged, would be in duty bound to find sixteen new indictments. Or if the court should compel the prosecution to elect to go to trial on some one count only—striking out the others, then the grand jury would be in duty bound to find fifteen new indictments. Thus, in either event, the defendant would be subjected to sixteen indictments and sixteen trials. How this could promote the rights and interests either of the public or of the defendant, it is not easy to perceive ; nay, it is difficult to imagine anything more harassing and vexatious to the defendant. Indeed the learned counsel for the defendant failed to show wherein this would be any favor to their client. Had sixteen indictments been found in the first instance instead of one, could not the defendant's counsel urge with irresistible arguments, that they should be consolidated ?

But is there not some legislation bearing upon the question ? By act of Congress, approved February 26th, A. D. 1853, it is provided that “whenever there are or shall be several charges against any person or persons for the same act or transaction, or for two or more acts or transactions connected together, or for two or more acts or transactions of the same class of crimes or offenses which may be properly joined, instead of having several indictments, the whole may be joined in separate counts ; and if two or more indictments shall be found in such cases, the court may order them consolidated.” (10 Statute at Large, page 162 ; 1 Brightly's Digest, page 223, Sec. 117.)

* * * * *

In considering the second ground of motion to quash, the meaning of the words “associate” and “cohabit” must be carefully kept in mind. Webster defines “associate” thus : To join in company, as a friend, companion, partner or confederate. * * * It conveys the idea of intimate union. He thus defines “cohabit” : To dwell and live together as husband and wife, usually or often applied to persons not legally married.

* * * * *

The learned counsel for the defendant need not be assured that any motion which they may make in behalf of their client, shall be patiently heard and carefully considered. Nor does the court intend to restrict them in their arguments, except upon questions already adjudicated. But let the counsel on both sides, and the court also, keep constantly in mind the uncommon character of this case. The supreme court of California has well said : “ Courts are bound to take notice of the political and social condition of the country which they judicially rule.” It is therefore proper to say, that while the case at bar is called, “*The People versus Brigham Young*” its other and real title is, “*Federal Authority versus Polygamic Theocracy.*” The Government of the United States, founded upon

a written constitution, finds within its jurisdiction another government claiming to come from God—*imperium in imperio*—whose policy and practices are, in grave particulars, at variance with its own. The one government arrests the other, in the person of its chief, and arraigns it at this bar. A system is on trial in the person of Brigham Young. Let all concerned keep this fact steadily in view; and let that government rule without a rival which shall prove to be in the right. If the learned counsel for the defendant will adduce authorities or principles from the whole range of jurisprudence, or from mental, moral or social science, proving that the polygamous practices charged in the indictment are not crimes, this court will at once quash the indictment and charge the grand jury to find no more of the kind.

The pending motion to quash is overruled.

It is not overstating the case to say that this decision of the Chief Justice created a profound sensation; not because of his refusal to quash the indictment, nor because of his argument that while Brigham Young was Governor of Utah grand jurors were selected, summoned and empaneled precisely as in the case at bar, which statement the *Deseret News* answered by explaining that such practice prevailed only while there was no Territorial statute upon the subject, and that after the passage of such a statute, in January, 1859, grand jurors were selected, summoned and empaneled according to its provisions, and that, too, under the sanction of Federal Governors and Judges up to the year 1870, when Judge McKean came to the Territory. But the sensation was caused by his remarkable declaration that “while the case at bar is called the People *versus* Brigham Young, its other and real title is Federal Authority *versus* Polygamic Theocracy.”

This was a virtual admission on the part of the Chief Justice that he was precisely what the Mormons, and many Gentiles, in and out of Utah, declared him to be,—“a mission jurist,” “a crusader,” “a judge panoplied with a purpose as in complete steel.” It was almost equivalent to saying that the guilt or innocence of the Mormon leader, of the charges contained in the indictment, cut no figure in the case whatever. “A system” was “on trial in the person of Brigham Young,” and he, forsooth, as an individual, must answer for the alleged crimes of a community, adjudged guilty in advance by the magistrate before whom he was arraigned for trial.

In lieu of adultery, or lewd and lascivious cohabitation, it was polygamy or plural marriage, after all, that was being proceeded against, as avowed by the Judge, who, throwing down the gauntlet in open court, called upon the defendant's counsel to prove that "the polygamous practices charged in the indictment" were not crimes. In short, instead of an action brought by the public prosecutor against Brigham Young, as a person, it was, according to Judge McKean, a crusade inaugurated by the United States Government against the Church of Jesus Christ of Latter-day Saints. It was this that created the sensation; and not only in Utah among the Mormons, but in other parts of the country the extraordinary language of the Chief Justice was commented upon and severely criticised.

Two days after the delivery of the opinion, the counsel for the defendant presented to the court the following document, which was read by Mr. Fitch:

TERRITORY OF UTAH, THIRD DISTRICT COURT.

| | | |
|--|---|--|
| THE PEOPLE OF THE UNITED STATES IN THE TERRITORY OF UTAH, VS. BRIGHAM YOUNG. | } | September Term, 1871, Salt Lake City. |
|--|---|--|

To the Hon. James B. McKean, Judge of the above entitled Court:

We, the undersigned, of counsel for the defendant in the above entitled cause, respectfully except to the following language of your honor in your opinion upon the motion to quash the indictment herein:

"The Supreme Court of California has well said, 'Courts are bound to take notice of the political and social condition of the country which they judicially rule.' It is therefore proper to say that while the case at bar is called '*The People versus Brigham Young*,' its other and real title is '*Federal Authority versus Polygamic Theocracy*.' The government of the United States, founded upon a written constitution, finds within its jurisdiction another government—claiming to come from God—*imperium in imperio*—whose policy and practice in grave particulars, are at variance with its own. The one government arrests the other in the person of its chief, and arraigns it at the bar. A system is on trial in the person of Brigham Young. Let all concerned keep this fact steadily in view; and let that government rule without a rival which shall prove to be in the right. If the learned counsel for the defendant will adduce authorities or principles from the whole range of jurisprudence, or mental, moral or social science, proving that the

polygamic practices charged in the indictment are not crimes, this court will at once quash this indictment and charge the grand jury to find no more of the kind."

The indictment in this case charges the defendant with "lascivious cohabitation" and not with polygamy or treason. The statement of your honor that a system of polygamic theocracy is on trial in this case in the person of Brigham Young, coupled with your intimation to us to prove by authorities that the acts charged in the indictment are not crimes, is most prejudicial to a fair trial of the defendant, in that it assumes that the defendant has been guilty of the acts charged in the indictment, and that the law and not the alleged fact will be on trial.

No motion has been made to quash the indictment in this case on the ground that the acts charged therein are not crimes, nor has such a proposition been advanced on argument by any of defendant's counsel therein.

We submit that no "political and social condition of the country" can relieve the prosecution of the task of proving one or more of the acts alleged in the indictment, and that unless and until such proof is made the guilt of the defendant ought not to be assumed or even conjectured by the Judge before whom he is to be tried.

If any presumption is to be indulged in it is that the defendant is innocent of the charges preferred against him, and that he will accordingly plead "not guilty" to the indictment, and that presumption remains until the defendant elects to plead either guilty or a special plea of justification, which latter have not been suggested by either the defendant or his counsel. In so pleading "not guilty," the defendant will not say that the acts charged in the indictment are not crimes, but that he is not guilty of the acts charged in the indictment.

Then there will be a question of fact for a jury, and we submit that in the determination of that question the language of your honor herein referred to cannot but tend to the prejudice of the defendant, and we therefore except to the same.

FITCH & MANN,
HEMPSTEAD & KIRKPATRICK,
SNOW & HOGE,
HOSEA STOUT,
A. MINER,
LE GRANDE YOUNG.

Messrs. Baskin and Maxwell were not in court when the exception was read, but coming in soon afterwards, the former, on being made acquainted with the contents of the document, moved that it be stricken from the files, there being, he declared, no authority for such a paper. Mr. Maxwell characterized it as either a personal attack on the Judge, or the proceedings of the court, or as a political exception; to which Mr. Fitch retorted that it was no more a political exception than the opinion which called it forth was a political ruling. Judge McKean stated that while he did

not wish to be understood as establishing a precedent, he would permit the exception to remain on file.

The defendant having pleaded not guilty, which he did on Monday, October 16th, further proceedings were postponed to enable both sides to better prepare for trial. From the language of the Judge the defendant's counsel drew the inference that the case would not be called up until the March term of court. A few weeks later, as will be shown, this impression was rudely dispelled. Mayor Wells, Apostle Cannon and other Mormons were subsequently arraigned and entered the plea of not guilty.

The arrest and arraignment of Brigham Young produced a widespread sensation. It was fully intended that it should do so. Lest there might not be sufficient in the bare fact to create the excitement desired by the promoters of the crusade, their usual tactics of "lying by lightning" were resorted to, to set on fire public opinion against the Mormons. The following are samples of the telegrams sent out from Salt Lake City by a representative of "the ring" two days prior to the arrest of President Young, and before it was publicly known that he had been indicted :

BRIGHAM YOUNG HAS BEEN INDICTED

On several charges, and it is also said that he is likely to be tried the coming week on one of the indictments.

THE MORMONS ARMING.

The sale of muskets and ammunition continues, and it is reported that more arms than those bought at the recent government auction sale at Camp Douglas have been disposed of.

EXCITEMENT AMONG THE SAINTS.

The feeling of the Mormon people, as reflected by the Church organs, the *News* and *Herald*, is unmistakably rebellious and warlike. The *News*, the official organ for Brigham Young, is extremely bitter and offensive. It advocates *open resistance to the laws*, libels United States officials, and endeavors in every way to incite the people to open rebellion. Under these circumstances many persons are sending off their wives and children to points where there will be no danger. The Church organs are doing everything in their power to fire the Mormon heart, and the result cannot but be disastrous, if the fanatical element is once aroused and fully loosed.

The foregoing dispatches appeared in the columns of the New York *Herald*, on Sunday, October 1st, 1871. All but one of the statements—that in relation to the indictment of President Young—were utterly false, and that exception, up to the time of the President's arrest, which did not occur until nearly thirty-six hours after the New York *Herald* had published the fact that he had been indicted, was supposed to be a secret of the grand jury room. Nothing better illustrates the unscrupulous methods pursued by the crusaders than this very fact, and when it is known that the sender of those slanderous dispatches was no other than Oscar G. Sawyer, managing editor of the Salt Lake *Tribune*, the organ of the anti-Mormons, the real character of the crusade becomes apparent, and the conspiracy between the Federal courts and "the ring" at that period is conclusively proven. Edward W. Tullidge, the historian, who was in a position to know whereof he testifies, is authority for the statement that at that time Judge McKean "had the editorial stool of the Salt Lake *Tribune*, at his pleasure, to write editorials sustaining his own court decisions."* This being the case, one of the reasons why Mr. Oscar G. Sawyer, managing editor of the Salt Lake *Tribune*, and special press correspondent of the New York *Herald*, enjoyed the reciprocal privilege of reveling in and revealing, at his pleasure, the secrets of the grand jury room of Judge McKean's court, is as clear as day.

The New York *Herald*, in its issue of October 3rd, contained the following announcement:

Brigham Young was arrested yesterday by the United States Marshal in Salt Lake City on an indictment charging him, under the Territorial laws, with lewd and lascivious conduct with sixteen different women, whom we may presume were, according to his creed, his wives. This brings the Mormon difficulty to a crisis, and we have nothing to do but await his utter demolition in the courts and the immediate downfall of the last relic of barbarism in this free country.

The Sacramento *Union* of the 6th commented thus on the Utah situation:

* Tullidge's History of Salt Lake City.

The arrest of Brigham Young, and Daniel H. Wells, another of the high functionaries in the Mormon Church, with a view to test the stability of polygamy as a Mormon institution, excites more than usual attention. The public is interested in knowing what the upshot of the whole affair will be. There is a prejudice, whether well or ill founded it is not the province of this article to say, against the Mormons as a sect, entertained by a majority of the people of the United States, and it is only made stronger by their polygamous doctrines audaciously declared to be sanctioned by revelation from heaven. The prejudice is deep-rooted, and it asks for the conviction of the leaders of the Mormons for practices which the civilization of the day does not approve.

The demands of the whole world have nothing to do with the case of these Mormons, and should have no weight when they are to be tried and guaged by established law. They are entitled to the protection of all the law there is, and are amenable only to the laws there are, and for misdeeds committed while those laws have existed. These Mormons went to a distant region as our forefathers fled from England, and founded institutions of their own. They went where no State laws were made to extend, and the Constitution of the United States and laws made in accordance therewith, have not in the past interfered with family relations. Marriage is not one of the institutions the sovereignty of the United States takes cognizance of and the declaration that the common law steps in, in the absence of anything else, and makes the polygamist amenable, is made in ignorance of the fact that the United States knows no common law, and it cannot be recognized anywhere except by statute. Up to a recent period the Mormons having full sway in Utah, no laws existed that militated against their peculiar institutions, but were in consonance with them. "Where no laws are, no offense abounds." An act of late date cannot go back of its enactment to punish. *Ex post facto* laws are prohibited, and we conceive that any act of Congress or of the Territorial Legislature, cannot punish polygamy before the enactment.

The leading Mormons now under arrest seem to have been caught up under an act to prohibit adultery, signed by Brigham Young himself. Now, that law is to be interpreted by the spirit that dictated its passage. Manifestly not one who voted for it, or Brigham Young who approved it, recognized its applicability to cases of polygamous practice. Their plural marriages were regarded as legitimate, and the law was passed to favor such marriages and to discourage prostitution. The spirit of that law has not been broken by the Mormon elders in taking more wives than one, and it is not in the duty of the judicial authorities of Utah to give the law a different construction from that intended. If that law is all that is relied on for conviction, Brigham and Wells may well entertain sanguine hopes of non-conviction, if a fair trial be given them.

The following is an excerpt of correspondence to the Indianapolis *Journal*, whose editor, Hon. W. P. Fishback, on October 10th of this year arrived at Salt Lake City, being one of a small party of tourists, headed by Senator Oliver P. Morton, then on the way to the Pacific Coast. Having carefully studied the local situa-

tion, Mr. Fishback gave the results of his observations to his paper in this form:

It is unfortunate for the nation that it is in the power of such men as Judge McKean and the deputy district attorneys, Maxwell and Baskin, to precipitate a collision between the Federal authorities and the Mormons, in a contest in which the Government occupies a false and untenable position. If an issue is to be made and settled in the courts between the U. S. authority on the one hand and polygamy on the other, concerning the lawfulness of the practice, it is of the utmost importance that it be fairly made and impartially tried, with full preparation for the probable results. We are convinced that the pending prosecutions are conceived in folly, conducted in violation of law, and with an utter recklessness as to the grave results that must necessarily ensue. How does the matter stand? There is a vacancy in the office of United States district attorney for the Territory of Utah. Judge McKean has appointed two lawyers, Maxwell and Baskin, to act as deputies. These deputies boast that they have instigated the prosecution and assume great credit for the disingenuous trickery by which they hope to force a conflict whose consequences they have not the capacity to measure or understand. It is much to the credit of President Grant's administration that these deputy prosecutors arrogate to themselves the entire credit of conceiving the disreputable trick to which they have resorted to effect their purpose. Let it be understood that the indictments pending are not based on the act of Congress of 1862, defining and providing for the punishment of bigamy, but upon Section 32 of the Territorial laws of Utah. * * * The indictment against Brigham Young charges him with violating this statute by living with his sixteen wives. By no recognized rule of interpretation can polygamy be punished under this law. The law itself was passed by Mormons who taught and practiced polygamy at the time, and it was clearly intended by its framers to punish prostitution and fornication in cases where there was no claim or pretense of marriage. However illegal, the Mormon marriages are *de facto* marriages, and were not contracted in violation of this statute. That they are contrary to the act of Congress is clear, and they should be attacked, if attacked at all, by the United States authority under that law. To use the Federal tribunals for the punishment of polygamists, under the Territorial act, is a manifest perversion of the law, if it is anything more than a piece of disreputable trickery, conceived and carried on in the interest of a gang of unscrupulous adventurers. If the United States desires to wage war upon Mormon polygamy, let it be done in an open and dignified manner, and not in the pettifogging style which has thus far characterized the prosecution in Judge McKean's court in Salt Lake. No good citizen of the United States can have any sympathy with polygamy. It is a doomed institution, and it must disappear from our social system; but all good people are interested in having its destruction brought about by methods stern and effective, if need be, but so ordered that the judgment of the civilized world shall approve them.

It was understood that these were not only the views of Mr. Fishback, the leading Republican editor of Indiana, but those also of his social and political friend Senator Morton, who, both on the

Pacific coast and in the East after his return from his western tour, voiced similar opinions regarding the conduct of the McKean coterie. Senator Morton and his party reached Salt Lake while the arguments were in progress in the District Court in the case of the People *versus* Brigham Young, on the motion to quash the indictment against the Mormon leader. The distinguished statesman attended court one afternoon, during the delivery of some of the arguments, he having a strong desire, notwithstanding the fact that he was a cripple and had to be carried up to the court room, to witness the remarkable proceedings then in progress.

Just prior to the arrival of Senator Morton and party, which included his wife and child, Mr. and Mrs. Fishback and child, Major Beeson, Dr. W. Clinton Thompson, Mrs. Lippincott (Grace Greenwood) and Judge Clark her brother, the dreadful tidings of the great Chicago fire had been flashed to every nook and corner of the nation, touching the hearts of America's millions and kindling deep and instant sympathy for the homeless myriads then wandering hungry and shelterless through the charred and blazing streets of the doomed and desolate city. Calls for succor came simultaneously. The Mormon response was immediate and heroic. Forgetting their own troubles, the Saints joined hands with their non-Mormon fellow citizens in extending aid for the relief of the sufferers. Immediately on receipt of the startling news of the awful conflagration, by which one hundred thousand people had been rendered homeless, Mayor Wells issued the following proclamation:

PROCLAMATION.

The news having been confirmed of the terrible conflagration by which a great portion of the city of Chicago has been reduced to ashes, and one hundred thousand people have been stripped of their homes, clothing and means of subsistence, therefore,

I, Daniel H. Wells, Mayor of Salt Lake City, by the wish of the city council of said city, call upon all classes of the people to assemble in mass meeting tomorrow, Wednesday, October 11th, at one o'clock p. m. in the old tabernacle in this city, for the purpose of making subscriptions and taking such measures as are demanded for the relief of our fellow citizens who are sufferers by this dreadful visitation.

October 10th, 1871.

DANIEL H. WELLS, Mayor.

The meeting thus called was duly held, Mayor Wells being chosen chairman, and Hon. George Q. Cannon secretary. Gentiles as well as Mormons were present, though the attendance, owing to the brief notice given, was not so large as it would otherwise have been. Messrs. John T. Caine, David E. Buell, Warren Hussey, S. Sharp Walker, S. A. Mann, Theodore McKean, William Jennings and William Calder were appointed a committee to receive subscriptions. Appropriate addresses were delivered by Hon. William H. Hooper, Hon. Thomas Fitch, Mrs. Lippincott, Major C. H. Hempstead, Mr. Alexander Majors and Judge Zerubbabel Snow. The sum of \$6,285.50 was subscribed at this meeting, President Brigham Young heading the list with a donation of a thousand dollars, Salt Lake City Corporation giving fifteen hundred dollars, and Daniel H. Wells, William H. Hooper, William Jennings and David E. Buell adding five hundred dollars each. Others donated smaller sums according to their ability. The meeting then adjourned, but reconvened at 7 p. m. in the open air before the Salt Lake House, where speeches were delivered and subscriptions made swelling the relief fund to \$15,000. Other meetings and additional subscriptions followed; a benefit at the Salt Lake Theater, offered for the purpose by President Young, took place a few nights later, and a lecture by Mrs. Lippincott, netting between two and three hundred dollars, was given at the same place.* Altogether, Utah's relief offering to the Chicago sufferers aggregated about \$20,000.

Mrs. Lippincott was deeply moved at the manifestation of philanthropy on the part of the Mormon people at this particular juncture. Said she, in a letter to the *New York Herald*, written

* The voluntary benefit tendered by the management, dramatic corps, orchestra and attaches of the Salt Lake Theatre, for the relief of the Chicago sufferers, took place on the night of Monday, October 16th, 1871. A double bill was presented; first, a piece entitled "From Village to Court" by the regular dramatic company, followed by the farce of "Handy Andy," with the talented Robert McWade—who had just closed an engagement at the Theatre, and had volunteered his services for the benefit—in the title role.

Mrs. Lippincott's lecture was given on Sunday evening, October 15th, her subject being "The Heroic in Common Life."

from Salt Lake City: "In the Old Tabernacle yesterday we attended a mass meeting, called by the Mayor to raise money for the relief of the Chicago sufferers. Here we saw Brigham Young, and I must confess to a great surprise. I had heard many descriptions of his personal appearance but I could not recognize the picture so often and elaborately painted. I did not see a common, gross-looking person, with rude manners, and a sinister, sensual countenance, but a well dressed, dignified old gentleman, with a pale, mild face, a clear gray eye, a pleasant smile, a courteous address, and withal a patriarchal, paternal air, which of course he comes rightly by. In short I could see in his face or manner none of the profligate propensities and the dark crimes charged against this mysterious, masterly, many-sided and many-wived man. The majority of the citizens of Salt Lake present on this occasion were Mormons, some of them the very polygamists arraigned for trial, and it was a strange thing to see these men standing at bay, with 'the people of the United States' against them, giving generously to their enemies. It either shows that they have, underlying their fanatical faith and Moham-medan practices, a better religion of humanity, or that they understand the wisdom of a return of good for evil just at this time. It is either rare Christian charity, or masterly worldly policy. Or perhaps, it is about half and half. * * * There is to me, I must acknowledge, in this prompt and liberal action of the Mormon people, something strange and touching. It is Hagar ministering to Sarah; it is Ishmael giving a brotherly lift to Isaac."

Had the talented lady, Mrs. Lippincott,—better known by her literary cognomen of "Grace Greenwood,"—remained in Utah a few days longer, she would have been apprised of an event which might have furnished her able pen with another text upon which to discourse in relation to the "mysterious and many-sided man," Brigham Young; an event which, while not exactly the offspring of "rare Christian charity," or of "masterly worldly policy," was illustrative of the public-spirited enterprise and practical philanthropy of the Mormon leader. It was the completion to Pioche,

Nevada, on October 23rd, of an extension of the Deseret Telegraph Line, originally established at Salt Lake City by President Young, and thence extended throughout Utah and into the adjoining States and Territories. The citizens of Nevada esteemed it as a boon and benefaction. According to the Mormon view this was Sarah, symbolized by the fair City on the Lake, ministering to Hagar, represented by Pioche in the wilderness. It was Isaac giving a brotherly lift to Ishmael; and thus Ishmael responded:

PIOCHE, NEVADA, October 23rd, 2:20 p. m.

President Brigham Young:

We thank you for your enterprise in placing us in telegraphic communication with the outer world,

P. EDWARD CONNOR,
CHARLES FORMAN,
M. FULLER,
B. F. SIDES,
HARRY J. THORNTON,
C. W. LIGHTNER,
D. W. PERLEY.


Other telegrams followed, including one from Superintendent Musser to President Young, one from General Connor and others to President Grant, and another from the same persons to Governor Woods. It was a great day at Pioche, where the event was celebrated with speeches, firing of cannon and other demonstrations of rejoicing.*

* Says Superintendent Musser of the event: "When the line reached Pioche they gave me a grand ovation, all citizens participating. It was a great boon to that big camp, because it put the miners and manipulators of the famous Raymond and Ely and the Meadow Valley mines and reduction works in direct communication with San Francisco and New York. So great was the demand for direct telegraph communication that within a year from its completion to Pioche the receipts of the telegraph office at that point amounted to some \$37,000."

CHAPTER XXII.

1871.

THE HAWKINS CASE—JUDGE MCKEAN DECIDES THAT POLYGAMY IS ADULTERY—A WIFE PERMITTED TO TESTIFY AGAINST HER HUSBAND—THOMAS HAWKINS CONVICTED AND SENTENCED—STRICTURES OF THE AMERICAN PRESS UPON JUDGE MCKEAN—THE UTAH BAR—PEN PORTRAITS OF “THE RING”—MAYOR WELLS ON REGISTER MAXWELL AND THE LOCAL LAND QUESTION—LEADING MORMONS ARRESTED, CHARGED WITH MURDER—“BILL” HICKMAN THEIR ACCUSER—HIS MOTIVE FOR IMPLICATING THE INNOCENT IN HIS CRIMES—WILLIAM H. KIMBALL’S STATEMENT—MAYOR WELLS ADMITTED TO BAIL—PRESIDENT YOUNG TAKES HIS ANNUAL TOUR THROUGH SOUTHERN UTAH AND IS FALSELY ACCUSED OF FLEEING FROM JUSTICE—PROSECUTING ATTORNEY BASKIN DEMANDS THE FORFEITURE OF THE DEFENDANT’S BOND—JUDGE MCKEAN REFUSES TO ALLOW THE FORFEITURE, BUT SETS THE DAY FOR THE PRESIDENT’S TRIAL—HON. THOMAS FITCH INTERVIEWED BY THE NEW YORK “HERALD” ON UTAH AFFAIRS—A RIFT IN THE CLOUD—MR. BASKIN SUPERSEDED—GEORGE C. BATES APPOINTED UNITED STATES DISTRICT ATTORNEY FOR UTAH.

CTOBER, 1871, the month made memorable by the commencement of proceedings in the case of the People *versus* Brigham Young,—or, as Judge McKean preferred to style it, “Federal Authority *versus* Polygamic Theocracy,”—witnessed the trial of what is known as the Hawkins case, which attained a celebrity second only to that in which the Mormon leader was the party defendant. The history of the Hawkins case is as follows.

Some weeks prior to the arrest of President Young and his brethren on the charge of “lewd and lascivious cohabitation,” a complaint had been made to Judge McKean that one Thomas Hawkins, a tinsmith and a resident of Salt Lake City, had committed “numerous adulteries,” in violation of the Utah laws relating to such crimes. According to the Judge’s statement, made in open court just before the trial, the complainant in the case was Mrs. Harriet Hawkins, “an English woman,” the wife of the accused, who came to McKean and gave information to the foregoing effect,

whereupon he, "as in duty bound," issued a warrant of arrest and had Thomas Hawkins brought before him. An examination elicited the fact that the defendant was a Mormon and a polygamist; that he had three wives, and that his so-called "adulteries" were simply alleged acts of cohabitation with the two women whom he had wedded after his marriage with the complainant. The Judge committed the defendant to the custody of the U. S. Marshal, but subsequently held him to bail to await a session of the Grand Jury. It was this case that was mentioned by Judge McKean and Prosecuting Attorney Baskin during the empaneling of the Grand Jury for the September term, when it was announced that the Judge had held that a certain man who had three wives had committed adultery, and that an attempt would be made to indict him on that score; and when Apostle George Q. Cannon and other Mormons were excused from acting as grand jurors for holding the opinion that plural marriage was not adultery.

The Grand Jury, composed exclusively of Gentiles and apostate Mormons, having been empaneled, Mrs. Hawkins, the complainant, went before that body and repeated the substance of her affidavit previously filed with Chief Justice McKean. It was her statement that produced the indictment upon which Thomas Hawkins was tried for adultery. The reader need hardly be reminded that a principle of common law was here violated in permitting a wife to testify against her husband. What the prosecution relied upon to justify the proceeding,—since the Cullom bill, which provided that a wife might testify against her husband in polygamy cases, had failed to become law,—was that clause in the Utah statute which said: "No prosecution for adultery can be commenced but on the complaint of the husband or wife." Had it not been for the complaint of Mrs. Hawkins, "lewd and lascivious cohabitation," instead of adultery, would have been the charge against Mr. Hawkins,—if any charge had been preferred against him at all; which is doubtful, since he, being a poor man and more or less obscure, would probably have been deemed by the crusaders scarcely worthy of the steel

unsheathed against Brigham Young and "Polygamic Theocracy." Upon the impropriety of permitting the defendant's wife to testify in this case, Mr. Fitch, in his masterly review of the acts of Judge McKean, says, after quoting the clause already cited:

"The statutes of but few States make adultery a felony, and adjudicated cases upon such statutes are rare. In Minnesota, however, the statute on this subject is precisely the same as that of Utah, and the Supreme Court of Minnesota, in a case strikingly analogous to the Hawkins case, in the case of *State vs. Armstrong*, reported in the fourth volume of Minnesota Supreme Court reports, set aside a similar conviction obtained upon the testimony of the wife, and in its opinion used the following language:

The act provides that no prosecution for adultery shall be commenced except on the complaint of the husband or wife. Com. statutes, Minnesota 128, sec. 1. It is contended that this provision authorizes them to be sworn as witnesses against each other before the grand jury in making the complaint. We think, however, that such was not the intention of the legislature, etc., etc. We could not, etc., consistently with the rules of construction of statutes add another case to those in which the confidence of the marriage relation may be violated while another reasonable interpretation will fully satisfy the statute. We think in limiting the prosecution of the crime of adultery to cases in which the complaint shall be made by the husband or wife, the legislature only meant to say that it was a crime, which, if the parties immediately interested did not feel sufficiently injured by it to institute proceedings against the offender, the public would not notice it. It does not follow that because the prosecution of a case proceeds upon the complaint of a particular person, that therefore that person must be the complaining witness. The person who moves the prosecution before the magistrate, or grand jury, may not personally know anything about the facts of the crime, but he can, nevertheless, put the investigation in motion, by entering a complaint, and either producing the witness who can establish the facts, or putting the officers of the law in the way of doing so. It means that it must be upon the motion, and with the approbation of the interested party.

"In the same case the Supreme Court of Minnesota says upon another point:

Marriages and deaths in civil actions involving questions of inheritance, the legitimacy of heirs, etc., may often be proven by admissions of the parties, inscriptions upon tombstones, memoranda in family Bibles, and a variety of circumstances which are admitted for convenience and from necessity. But in criminal prosecutions for bigamy, or in adultery where the offense depends upon the defendant being a married man or woman, the marriage must be proven in fact, and a conviction cannot be had upon the admissions of the defendant. 7 John, 314. *People vs. Humphrey*.

“Yet on the trial of Hawkins Judge McKean permitted the prosecution to prove the marriage of Hawkins by evidence of his admissions to that effect.

* * * * *

“Thus it will be seen that the four important provisions of the discarded Cullom bill, namely, no choice of jurors except by a United States Marshal, no Mormon to serve on juries, the abrogation of the common law rule that a wife cannot testify for or against her husband, and the new doctrine that marriage in criminal cases can be proven by admissions of the defendant—are all in successful operation. That legislation to meet a local difficulty in the way of enforcing the laws, which the Senate of the United States did not deem it wise or expedient to enact, has been decreed and established by James B. McKean. That course of procedure which Chief Justice Salmon P. Chase tacitly refused to pursue, even to meet a great popular demand for the punishment of Jefferson Davis, the Chief Justice of Utah has pursued to comply with a small popular demand for the punishment of a Mormon polygamist. The Judge has made those bold innovations upon precedent, the contemplation of which compelled the pause of the law-making power of a great nation. Who will doubt that whenever the exigency arises the same Judge will overturn another common law rule, and establish another proposition of the Cullom bill by allowing marriage to be proved in prosecutions for polygamy by evidence of general reputation? Who will doubt that any ruling will be made that is necessary to carry out the purposes of this crusade? And what unprejudiced citizen but will regard with apprehension the extension of this practice of judicial legislation? If it should ever reach beyond Utah and be adopted by the Judges of our State and National courts of last resort, either a revolution would be induced, or a people who had lost their liberties would have occasion to remember John Randolph’s epigram, that ‘the book of Judges comes before the book of Kings.’”

That the indictments found against the Mormon leaders, as set

forth in the preceding chapter, were based purely upon "evidence of general reputation," and not upon the testimony of witnesses duly summoned before the Grand Jury, was very generally believed. Mr. Fitch's supposition that the same rule would probably be followed when their cases came before the trial juries, was well founded.

On the 14th of October—the same day that the counsel for President Young filed their exception to the remarkable language of Chief Justice McKean in his decision upon the motion to quash the indictment against the Mormon leader—the defendant, Hawkins, by his attorneys, Messrs. Miner and Fitch, filed a motion for a change of venue in his case, alleging his belief, on oath, that he could not obtain a fair trial in the Third District Court, owing to the prejudice that existed in said court and among the people from whom the jury that would try him was to be drawn. Arguments of counsel having been made the Judge rendered a decision overruling the motion for a change of venue, on the ground that the defendant's affidavit did not state facts going to show that any prejudice existed against him. The Prosecuting Attorney then requested the court to fix a day for the trial of the case, and Wednesday, October 18th, was accordingly set apart for the purpose.

On that day the empaneling of a jury to try the case was begun, and on the following day concluded. This jury was formed in about the same manner as the Grand Jury which had found the indictment. Among the jurors summoned by the U. S. Marshal were two or three Mormons, who were promptly challenged by the Prosecuting Attorney and excused by the Judge, on answering "Yes" to the question if they believed in polygamy, and "No" to the question if they believed a man could be guilty of adultery who committed the act constituting that offense under a claim of plural marriage. The jury as completed stood as follows, most of its members being Gentiles and the rest apostate Mormons: James H. Wilbur, James Crouch, William H. Liter, Isaac F. Evans, John H. Latey, Henry O. Pratt, James E. Matthews, George H. Rought, Jacob Ornstein, Henry George, Charles B. Trowbridge and Sol. Siegel.

Regarding the rulings of Judge McKean while the jury was being empaneled, Mr. Fitch says:

"The act of Congress governing the mode of procedure in criminal cases in the courts of the United States, gives to the accused ten peremptory challenges to the jury against two accorded to the prosecution, while the Territorial law governing the mode of procedure in criminal cases in the Territorial courts gives to the prosecution and the accused six challenges each. The act of Congress referred to bars all prosecution for non-capital felonies (except forgery) not instituted within two years from the date of the offense, while the Territorial laws contain no statute of limitations. The Territorial laws provide that in non-capital cases the jury which finds a defendant guilty may prescribe the punishment. The act of Congress is silent upon this subject and of course leaves the power of sentence, where in the absence of statutory regulation it would belong, with the judge.

"As Judge McKean had ruled that his was a United States court, the counsel for Hawkins asked the court to give their client the benefit of the ten challenges allowed by act of Congress. Judge McKean refused, and allowed only the six permitted under the laws of Utah. The defendant's counsel requested an instruction to the jury that the law of Congress protected the defendant for acts committed two years before the finding of the indictment. Judge McKean refused because the Territorial laws prescribed no limit for prosecutions. Then counsel asked the Judge to allow the jury to fix the punishment as prescribed by the Territorial laws. He refused that also. He pursued the practice of a United States court when the jury was being selected; of a Territorial court when the jury were being peremptorily challenged. He pursued the practice of a Territorial court when the act of Congress would have limited the prosecution; of a United States court, when the jury might, under Territorial law, have been more lenient in prescribing punishment than the exigencies of a great burning 'mission' would warrant."

The only witnesses examined for the prosecution were Mrs.

Harriet Hawkins and her daughter, Eliza A. Hawkins. For the defense Mr. Andrew Taysum was the only witness called. The evidence went to show that Harriet Hawkins was the defendant's legal wife; that besides her he had two other wives, whose maiden names were Elizabeth Mearns and Sarah Davis, and that they had borne children whom he acknowledged to be his own. Mr. Taysum was called for the purpose of proving that a formal union had taken place between the defendant and Elizabeth Mearns, who, the witness stated, was a sister to Mrs. Taysum, and was married to Mr. Hawkins in 1862. The proving of this polygamous marriage was of course a part of the defense against the charge of adultery. Arguments of counsel followed, the Judge charged the jury and they retired to consider upon a verdict. This was Friday evening, October 20th. Next morning they came into court and rendered a verdict of guilty. A motion for a new trial made by counsel for the defendant was overruled by Judge McKean, who, on Saturday, October 28th, passed sentence upon the convicted man as follows:

Thomas Hawkins, I am sorry for you, very sorry. You may not think so now, but I shall try to make you think so by the mercy which I shall show you. You came from England to this country with the wife of your youth. For many years you were a kind husband and a kind father. At length the evil spirit of polygamy tempted and possessed you; then happiness departed from your household, and now, by the complaint of your faithful wife and the verdict of a law-abiding jury, you stand at this bar a convicted criminal.

The law gives me large discretion in passing sentence upon you. I might both fine and imprison you, or I might fine you only, or imprison you only. I might imprison you twenty years and fine you one thousand dollars. I cannot imprison you less than three years nor fine you less than three hundred dollars. It is right that you should be fined, among other reasons to help to defray the expense of enforcing the laws. But my experience in Utah has been such that were I to fine you only, I am satisfied that the fine would be paid out of other funds than yours, and thus you would go free, absolutely free from all punishment; and then those men who mislead the people would make you and thousands of others believe that God had sent the money to pay the fine, that God had prevented the court from sending you to prison, that by a miracle you had been rescued from the authorities of the United States. I must look to it that judgment give no aid and comfort to such men. I must look to it that my judgment be not so severe as to seem vindictive, and not so light as to seem to trifle with justice. This community ought to begin to learn that God does not interpose to rescue criminals from the consequences of

their crimes, but that on the contrary He so orders the affairs of His universe that, sooner or later, crime stands face to face with justice and justice is the master.

I will say here and now, that whenever your good behavior and the public good shall justify me in doing so, I will gladly recommend that you be pardoned. Thomas Hawkins, the judgment of the court is that you be fined five hundred dollars, and that you be imprisoned at hard labor for the term of three years.

The prisoner was remanded to the custody of the U. S. Marshal, and pending an appeal to the Supreme Court of the Territory—the highest tribunal of resort in such cases—was confined in the Utah Penitentiary. The “miracle”—unforeseen by Judge McKean—which “rescued” Thomas Hawkins from “the consequences” of “the crimes” of his persecutors, was the Englebrecht case, in which the amount at issue, being in excess of one thousand dollars, was sufficient to allow of an appeal to the Supreme Court of the United States. Had it not been for this, there is no telling to what lengths “the Utah Jeffreys” and his fellow violators of law and justice might have carried their merciless crusade against the Mormons. Strange that this case, the first one adjudicated by Chief Justice McKean—whose first important ruling in Utah, that permitting the unlawful formation of the Grand Jury which found the indictment against the abaters of the Englebrecht establishment, caused all the other anti-Mormon prosecutions of that period—should have been the only one started by the crusaders in which an appeal could be taken from the judgment of their mouthpiece! The Englebrecht case was a veritable boomerang, returning to plague the hands that cast it. They were hoisted by their own petard.

To reproduce from the American press of that period a tithe of the adverse criticisms showered upon Judge McKean and his coadjutors after the trial of the Hawkins case, would be to make this chapter more voluminous than either the author or reader would care to have it. Some of them, however, should here be presented. The following pointed paragraphs are from the Omaha *Herald*:

He (Hawkins) was convicted under a Territorial statute which was enacted by a Mormon Legislature, and no man knows better than Judge McKean that polygamy was

never thought of by its framers. A greater outrage was never perpetrated in the name of law than that was.

* * * * *

An indictment against a Mormon in Utah, let it be remembered, is tantamount to a conviction. Brigham Young and Mayor Wells are already convicted as much as though the farce of trial and verdict had already been performed.

The Idaho *Herald* said:

If the government is really in earnest, and determined to suppress polygamy, it will. But let the laws be passed and let the Federal authorities act under the law. The trial of Hawkins and others now going on there is without precedent and without laws. They might as well have a military trial, out and out, as go through the farce of getting a jury in the manner in which they have done. No one who looks upon the proceedings of these courts from a disinterested standpoint, can fail to see it in any other light than persecution.

Said the Sacramento *Union*:

We are more than ever convinced that Judge McKean, who occupies the place of one whose business it is to administer law according to its true intent, is as confirmed a bigot as any Mormon he desires to prosecute; that he is utterly wanting in sagacity or knowledge of law; that his purpose is to complicate difficulties where none need to exist; and that he ought to be driven ignominiously from the bench. His whole course as Judge, since the prosecution of the leading Mormons began, has been that of a narrow-minded zealot, as ignorant of law as he is reckless of the consequences of his extra-judicial acts. He started out, not to investigate, but to convict. All his utterances and his whole conduct have shown the animus of the man from first to last. He exhibits the worst qualities of a fanatic, and it is almost safe to say from his doings, that he is a religious bigot of some sort, and is better fitted to perform the part of a wandering dervish than to sit in judgment where the liberty of one of an opposing creed is at stake.

* * * * *

His object is to procure a conviction by a perversion of the statute, which, as a sworn judge, he is obliged to interpret according to its true intent, and not to gratify his religious prejudices and personal malice. We are informed that the Federal officials are acting wholly without authority or advice from Washington. They are indulging in the pastime of small men, dressed in a little brief authority, in order to feed vanity, exhibit power and make a noise.

* * * * *

We have it on good authority that some of these conspirators at Salt Lake admit that they are resorting to foul means, and chuckle over the effects they are going to produce. This is not the spirit that should actuate men invested with the power of dispensing impartial justice according to the real meaning of the laws.

This from the Sacramento *Reporter*:

Chief Justice McKean, in passing sentence upon Thomas Hawkins at Salt Lake on Saturday, warmly assured him that he was "sorry" for him. If the Utah Jeffreys has any real friends they are doubtless "sorry" for him; and their sorrow is not feigned, however it may be with McKean. Perhaps the latter really is sorry for his victim. He has reason to be sorry for him. If he will now confess that he is sorry for himself, and ashamed of himself, we will acknowledge he is not the hardened bigot we believe him to be. The outrage has now been fully consummated. Its enormity is not lessened by the professed mental distress of the chief actor, nor by the fact alleged by the *New York Herald* that Hawkins will live in history. He *will* live in history and so will the man who was at once his persecutor and his judge; but all the material has not been prepared for the historic chapter that will embalm their names. The matter is not as yet a finality. It is hardly possible that such an arbitrary act of injustice will not be undone. It is gratifying to know that the best papers in the country of both political creeds, are taking the correct view of this matter. There is general, severe and deserved censure, from all quarters, of McKean's conduct. He will not dare to face the storm he has raised. He will hardly be guilty of taking part in another such transaction as the conviction of Hawkins. If he shall be prevented from convicting any more men illegally, the discussion his conduct has provoked will not have been in vain.

But we have not only hope for others who have been singled out for impeachment, but we have hopes for Hawkins himself—and hoping for Hawkins' deliverance is hoping for the vindication of law, the triumph of justice. He has been convicted illegally, and that very fact makes his cause that of the entire American people.

Again spoke the Sacramento *Union*:

If a trial in another shape had been attempted there would have been a chance to appeal. If the suit with Hawkins had been for one thousand dollars or over, he could appeal from Judge McKean's court to the Supreme Court of the United States, but the right to appeal in cases where life and liberty are at stake was taken away by the reconstruction acts of Congress. The object of McKean and his confederates in ignoring the Federal laws and bringing action against Hawkins under a Mormon statute, to which the court could give a false construction, was to convict without a chance to appeal except to himself and others in league with him. The case would have been entirely different if an attempt had been made to execute Federal laws, instead of reversing the meaning of a local law. The province of a judge is to declare a law according to its intent, and not to torture it, and the course of Judge McKean smacks of the qualities of a Jeffreys, and he should be condemned for it, and not lauded, as the leatherheads would have him.

The following is from the Boston *Banner of Light*:

In the Constitution of the United States, it will be admitted, there is not a word having reference to the marriage relation, and in the laws of Utah there is not a word that would justify any judge or any jury in defining polygamy as necessarily involving adultery. The attempt, therefore, so to define it, is simply a high-handed breach of law and of common sense, which can only lead to violations of justice that will rather confirm the Mor-

mons in their ways than have the effect which some of the antagonists of polygamy anticipate. Mr. Hawkins is no more an adulterer, because of his polygamy, than were Abraham and those other patriarchs of the Old Testament, whom to stigmatize as the court has stigmatized Mr. Hawkins, would be pronounced as flat blasphemy by all who believe in the Bible as the word of God.

There is no evidence that polygamy was prohibited, either under the old dispensation or the new. Milton has proved this in the most exhaustive manner, in his various treatises on the subject. Luther and his synod declared that there was nothing in the whole Bible adverse to polygamy or concubinage.

"It is not allowable to argue," says Milton, "from I. Corinthians vii: 2, '*let every man have his own wife,*' that, therefore, none should have more than one; for the meaning of the precept is, that every man should have his own wife to himself, not that he should have but one wife. That bishops and elders should have no more than one wife is explicitly enjoined, I. Timothy iii: 2, and Titus 6, '*he must be the husband of one wife,*' in order, probably that they may discharge with greater diligence the ecclesiastical duties which they have undertaken. The command itself, however, is sufficient proof that polygamy was not forbidden to the rest, and that it was common in the church at that time."

Dr. Channing, a name revered in this part of the country, says, in his article on Milton, "We believe it to be an indisputable fact, that, although Christianity was first preached in Asia, which had been from the earliest ages the seat of polygamy, the Apostles never denounced it as a crime, and never required their converts to put away all wives but one."

"On what grounds," asks Milton, "can a practice be considered dishonorable, which is prohibited to no one even under the gospel? Reverence for so many patriarchs, who were polygamists, will, I trust, deter any from considering polygamy as fornication or adultery; for whoremongers and adulterers God will judge, whereas the patriarchs were the objects of His especial favor as He Himself testifies. If, then, polygamy be marriage, properly so called, it is also lawful and honorable, according to the same apostle, Hebrews xiii: 4. Let the rule received among the theologians have the same weight here as in other cases. The practice of the saints is the best interpretation of the commandments."

We quote the religious argument because it is evident that the judge and jury who condemn Hawkins rely more upon the common religious prejudices for their authority than they do upon anything in the Constitution of the United States or in the laws of Utah.

The Albany *Law Journal*, edited by a gentleman who was well acquainted with Judge McKean, and who evidently esteemed him personally, felt compelled by principle to take issue with his official actions, which it did in the following manner:

The trial of Brigham Young has been postponed for several months, during which his counsel hope to get a decision of the United States Supreme Court on the question as to whether the Territorial or Federal laws are to govern in the selection of juries. The

question is, of course, of the first importance, for with a jury composed entirely of Gentiles there would be little hope for the "prophet."

The remarks of the Chief Justice that "the system of polygamic theocracy would be tried in the person of Brigham Young," has served, we are told by a correspondent, to knit together the entire Mormon community, and men and women are offering their contributions to secure counsel to defend their leader and their doctrines. Should the trial take place it will be one of the *casas celebras* of the country. The indictment of Young and the conviction of Hawkins were brought about under a statute against adultery and lascivious conduct passed by an exclusively Mormon Legislature in 1852. That the act was intended to cover cases of the kind no one believes, and it may fairly be questioned whether polygamy can be treated as a crime under it. But it is a question we do not propose to discuss. We are of the opinion, however, that it would have been more becoming, considering the decisions already made, for the court to have proceeded under the statutes of the United States against polygamy.

That Chief Justice McKean is a pure and honest man, we know, having known him for years before his elevation to the bench, but we know him also to be a man of strong convictions and unyielding prejudices. These latter qualities he has displayed in his present position in a manner scarcely becoming the ermine. Justice ought to be severe, and awful, too, but it ought at the same time to be impartial—to sit calm and unmoved above the storms of prejudice and passion that rage beneath. His decisions we do not question, but the language accompanying those decisions has been often so intemperate and partial as to remind one of those ruder ages when the bench was but a focus where were gathered and reflected the passions of the people.

The following racy description of the court-room over Faust's stable at the time of the Hawkins trial is taken from the columns of the Cincinnati *Commercial*, which paper had "a live correspondent" in Utah at this period:

The Judge on the bench, J. B. McKean, at once cleared his throat and looked over the bar and the audience. The Judge wore a blue coat and was trim as a bank president. He sat upon a wooden chair behind a deal table, raised half a foot above the floor; the Marshal stood behind a remnant of dry goods box in one corner, and the jury sat upon two broken settees under a hot stove pipe and behind the stove. They were intelligent, as usual with juries, and resembled a parcel of baggage smashers warning themselves in a railroad depot between trains. The bar consisted of what appeared to be a large keno party keeping tally on a long pine table. When some law books were brought in after a while, the bar wore that unrecognizable look of religious services about to be performed before the opening of the game. The audience sat upon six rows of damaged settees, and a standing party formed the background, over whose heads was seen a great barren, barn-like area of room in the rear, filled with the debris of some former fair. One chair on the right of the Judge was deputed to witnesses. The room itself was the second story of a livery stable, and a polygamous jackass and several unregenerate Lamanite mules in the stall beneath occasionally interrupted the judge with a bray of delight. The

audience was composed entirely of men, perfectly orderly, and tolerably ragged, and spitting surprisingly little tobacco juice; almost all of them Mormons, with a stray miner mingled in, wearing a revolver on his hip and a paper collar under his long beard.

At the bar table, on one side, sat Baskin and Maxwell, the prosecutors; the former frowsy, cool and red-headed, the latter looking as if he had overslept himself for a week and got up mad. On the opposite side sat Tom Fitch, late member of Congress from Nevada, a rotund, cosmopolitan young man, with a bright black eye, a piece of red flannel around his bad cold of a throat, and great quantities of forensic eloquence wrapped away under his moustache. Behind him was A. Miner, the leading Mormon lawyer, turned a little gray and thinned down in flesh very much since Judge McKean got on the bench; for the Judge uses Miner as the scapegoat for the sins of the bar, and threatens him with Camp Douglas and a fine every time he has a toothache. Whenever Miner gets up to apologize, the Judge makes him sit down, and when he sits down the Judge looks at him with his resinous black eyes as if he had committed solely and alone the Mountain Meadow massacre. Miner is the "Smallbones" of the court, and is fed on judicial herrings. The other lawyers are all Gentiles, except Hosea Stout and one Snow, of the firm of Snow and Hoge, a Vermonter. Yonder is a square built man with cropped hair,—ex-Governor Mann, Fitch's partner; they divide the leading business here, although resident only six months, with Hempstead and Kirkpatrick, the former a slow, serious military officer, and the latter a dark-eyed Kentuckian. Kentuckian also is Marshall, the Ancient Pistol of the bar, rare and stupendous in speech, and chiefly admired by his partner, Carter, from Maryland. Nothing is a bereavement to Marshall, however, for as he frequently reminds the court, "the jurisprudence of the country reaches its perihelion in the names of Kent, Choate and Marshall, of which latter I am a part." Smith and Earl and De Wolfe are about the remainder of the Utah bar—a shrewd, clever bevy of pioneer chaps, some of whom draw large contingent fees from mining suits.

As Miner is the victim of the court, the court in turn is the victim of Baskin, the prosecuting Attorney *pro tem*. Baskin comes from Ohio and gets his red-hot temper from his hair. He is related to have—somebody in Ohio, and about six months ago he scaled the ermine slopes of Judge Hawley, one of the three luminaries of this bench. But as this notable hench in Utah never consult together, Strickland agreeing with McKean in everything, and Hawley in nothing, Judge McKean let Baskin out on *habeas corpus* in four days, and Baskin disdained to pay his fine. It is Baskin, therefore, who insists, as Prosecuting Attorney, that the laws of the United States and the courts thereof must be respected in Utah.*

* The correspondent alludes to a disagreement that took place between Judge Hawley and Mr. Baskin, in which each gave the other the lie. Mr. Baskin also used further language offensive to the Judge, for which the latter fined him \$100, and ordered him imprisoned for ten days. The Judge issued a mittimus, directing the United States Marshal to take the refractory attorney into custody. At this Baskin became furious, snatched the paper from Hawley's hands, trampled it on the floor and ordered the Judge from the room, at the same time expressing the utmost contempt, by words and gestures, for him. Hawley did not exhibit any haste to leave the apartment, so Baskin seized him by the collar and

As for McKean's two associate Judges, they are off holding District Court at Provo and Beaver, Hawley harassing some rural justice of the peace with his last printed opinion, and Strickland playing billiards for drinks, between sessions, with Bill Nye.* But Judge McKean does not use tobacco nor a billiard cue in any form, his sole recreation is to practice elocution and parlor suavity in anticipation of his appearance in the United States Senate from the State of New York. A trim, apprehensive, not unsagacious man, with a great burning mission to exalt the horn of his favorite denomination upon the ruins of the Mormon Bishopric, McKean is resolved in advance that everybody is guilty who can keep awake under Orson Pratt's sermons.

The same paper, by its Salt Lake correspondent, presented the following pen portraits of those whom he considered the members of the anti-Mormon "ring:"

1. Chief Justice of Utah, J. B. McKean, of New York State; an officer of the volunteer army during the war, and a prominent Methodist; formerly, it is said, a preacher. McKean came here upon a crusade against polygamy, and his fair abilities and great vanity have carried him through it thus far with about equal flourish and fearlessness. He is a wiry, medium-sized man, with a tall, baldish head, gray sidelocks, and with very black, sallow eyes, at times resinous in color like tar water. He looks, however, to be in the prime of strength and will; has never communicated with Brigham Young personally since he arrived, and is absorbed in the purpose of intimidating the Mormon Church or breaking it up. His behavior on the bench has been despotic and extra-judicial to the last degree, and he has also been unfortunate enough to compromise his reputation by mining speculations which have come before his court, and received influential consideration there.

2. R. N. Baskin, the author of what is called in Congress the "Cullom Bill," and at present temporary prosecuting attorney before McKean's court, a lean, lank, rather dirty and frowsy, red-headed young man, but a lawyer of shrewdness and coolness, and inflamed against Mormonism. He said in a speech before McKean last Friday that if Joseph Smith had been a eunuch he would never have received the revelation on polygamy. To this the Mormons retort that Baskin is married to a woman for whom he procured a divorce from a former husband, etc.

3. George R. Maxwell, an ex-officer from Michigan, with a game leg, a strong, dissipated face, and registrar of the land office here; an indomitable man, but accused of corruption, and a chronic runner for Congress against delegate W. H. Hooper; thinks Congress is a vile body because it will not put Hooper out of Congress for his creed, as promptly as Judge McKean would put him off a jury.

proceeded to drag him out, at the same time threatening, in vulgar parlance, that he would kick a portion of his anatomy down stairs. At this point the Marshal interfered and took charge of the irate lawyer.

* The now famous humorist was in Utah during this eventful period as a correspondent for several journals.

4. J. P. Taggart, United States Assessor ; a person who was bitten by a dog some time ago, and charged the bite to Mormon assassins. Imperfect, indeed doubtful record in the army as surgeon, and chiefly potential as a gadder and street gossip against the Saints.

5. O. J. Hollister, United States Collector ; uninteresting man, who married the half-sister of the Vice-President, and although a determined anti-Mormon, does not agree with several of the ring ; the same is the case with several others, all want to be boss. Hollister deluges the Eastern press from Chicago to New York with letters of locums picked up at hearsay, and hardly reliable enough for a comic paper.

6. Dennis J. Toohy, editor and late partner with Hollister in the *Corinne Reporter* ; an Irishman witty and abusive, and incapable of working in harness. The ring tactics have generally been to combine the Godbeites and the Gentiles in a liberal or anti-Brigham party, but at a meeting of the two sets some time ago Toohy denounced polygamy so violently that Godbe and Eli B. Kelsey, apostates but polygamists, rose up and resented it.

7. Frank Kenyon, proprietor of the *Review*, a paper which has superseded the Salt Lake *Tribune* in irritating the Mormons ; a Montana man, and with so little fortitude that when the indictment of Brigham was proposed, he sent his domestic treasures to San Francisco.

8. C. M. Hawley, associate justice with McKean, but not servile like O. F. Strickland, the other judge. Hawley bores people on the streets by reading his long opinions to them. He nearly made O. P. Morton a polygamist lately by relating to him opinions the other way.

8½. C. M. Hawley, Jr. son of the aforesaid, a weakish, fop-whiskered, insubstantial young man, who stood challenger at the polls in Salt Lake recently, with too many horns "into" him, and was arrested by the city police and confined two hours ; he now has a suit against the corporation for twenty-five thousand dollars damage, and one of the usual juries may award it.

9. Geo. A. Black, Secretary of the Territory, author of the proclamation against the Fourth of July here.

10. Geo. L. Woods, of Oregon, the governor ; a gristly large man, of little mental "heft." Woods refused to let the Mormon militia celebrate the Fourth of July last year, and ordered, through Black, Gen. De Trobriand to turn out his regular army garrison and fire on the Nauvoo Legion if they disobeyed. De Trobriand, who has a contempt for the Gentile ring, like all the regular army officers, answered : "If I do this thing there is to be no confusion nor debate about it upon the actual field. I shall parade my troops down to the Mormon line ; the first order will be my military rule, 'Present arms !' The second order, in proper succession, will be, 'Fire !' This order you must give." Woods refused to take the responsibility, and threatened to make General Grant remove De Trobriand. The latter told Woods to go to the devil, and said it was an outrage, anyway, to forbid the Mormons to celebrate the Fourth, as they had been doing for twenty years. De Trobriand was removed as soon as Dr. Newman, the Methodist preacher, could see Grant, and Gen. Morrow was ordered here. *

* General De Trobriand was transferred to Fort Steele, Wyoming, in October, 1871.

This is about all the ring, except Strickland, a Michigander on the bench, Win. Appleby, the register in bankruptcy, and R. H. Robertson, Strickland's law partner, seeking practice under the protection of the courts.

These people represent the average character of the Territorial officers, political adventurers for the most part, paid the low stipends allowed in the wisdom of the Federal Government and possessing in common only an intense feeling begotten of conviction and interest against every feature of the Mormon Church. Polygamy is the objective feature, but the city and Territory completely out of debt and both with plethoric treasuries, the great co-operative store paying two per cent. a month and yet unincorporated, and the value of Salt Lake City property, for which a title has never yet been given, appear to offer wonderful opportunities for plunder in case an outbreak can be devised.

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The court has given moral support to unlicensed liquor dealers, and encouraged them to resist paying the hitherto almost prohibitory rates of license.

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Prostitution taking encouragement from these cases has quadrupled in Salt Lake, every bagnio being composed of Gentile women. A day or two ago a street walker was arrested for drunkenness and swearing, but some of her friends, the poker-players at the Wasatch Club, prompted her to sue the city for ten thousand dollars.

In short, the office-holders' ring, led by the United States court and supported by the liquor and land interests, and all who want to throw off city taxation, is engaged in an unequal grapple with the municipal corporation. The east is liberally supplied with inflammatory correspondence charging mutiny upon the Mormons, in spite of the fact that Brigham Young has submitted to arrest and appeared, unattended, in court. The garrison has been increased to about 1,200 men, unwilling allies of the ring. A large amount of capital invested in the rich argentiferous galena mines has been diverted to Nevada, Idaho and Montana, and other foreign capital, apprehensive of a war, has declined to come here. Brigham Young, with whom the United States has dealt upon terms of encouragement in a hundred ways while as much of a polygamist as now—using him to build telegraph and railways, to furnish supplies, to repress Indians and carry mails—and which appointed him first governor of Utah and continued him in the place for seven years—this old man of seventy years of age is suddenly admonished that he is a criminal, and put on trial for offenses committed twenty years ago.

Regarding the local land question and other topics, the *Commercial's* correspondent interviewed the Mayor of Salt Lake City. The following is a portion of their conversation:

Mayor Wells:—It is no fault of the United States government that we are not now peacefully possessing the titles to the ground we have redeemed, and which Congress wishes us to retain. It is the fault of the unrelenting Land Register here, Maxwell, who has entertained and abetted every petty and malicious claim contesting our right to the site, and who hinders the entry of our city, apparently with the object of being bought off or of discouraging us, or even of robbing us of it.

Correspondent:—How much do you claim as the proper area of Salt Lake City, General Wells?

Mayor Wells:—About five thousand seven hundred acres, sufficient to give us water front on the Jordan and control of the irrigating reservoirs. We had laid out the city with an eye to coolness, breathing valves, wide streets and plats for recreation. The law is general upon the subject of municipal sites. It gives three hundred and twenty acres to every one hundred people in a town; a town of five thousand people receives four sections of the public lands. Salt Lake had grown so far beyond all precedents that we had to get a special relief bill passed, applying to our city, and we took a census for the purpose. The land office at Washington recommended and Congress promptly passed the special bill, under the terms of which we added to our original chart other essential bits of ground. What I wish to make plain to you is this: the nasty pretexts on which we are retarded in the matter of our entry!

Correspondent:—Give me the names of all the claims which Maxwell has entertained against the city.

Mayor Wells:—Well, there are the Robinson, Slosson, Williamson and Orr cases. Robinson was a retired surgeon of the army, who kept a billiard saloon and was a sporting man here. He jumped the Warm Springs property, our public bath houses on the outskirts of the town, with eighty acres of environing land, although we had walled up the spot, dammed the warm stream, fenced the enclosure and used it so long under municipal regulations that the pump cylinder with which we tubed the spring had rotted away. Robinson put a tent and a guard by the spring, and built a fence within our fence—a most impudent attempt to jump our property. We removed his obstructions and he embarrassed us at law until his death, when his widow continued the suit, and the land agent actually permitted her to make a cash entry of the place. Very differently did the Washington authorities behave. The Commissioner of the Land Office decided without hesitation in our favor and the Secretary of the Interior confirmed it.

Correspondent:—What was the Slosson claim?

Mayor Wells:—Slosson was a fellow who first rented a quarter section of ground from the city, on the road leading to Camp Douglas, and when he undertook to keep a rum shop on it, in violation of law, we ejected him. He was then abetted by this Maxwell, in a bare-faced attempt to claim it and enter it; but Maxwell's decision was reversed by the heads of department at Washington.

The other two claims are even more preposterous, yet they are received and considered, and instead of disposing of them, Maxwell spends his time acting as volunteer counsel against us in criminal cases before the United States Court. Williamson jumped a bit of ground, claiming [it under] the pre-emption laws, and put a shanty upon it. It was a spot we had long previously reserved for a parade ground. J. M. Orr, a lawyer here, filed also Chippewa scrip for eighty acres between Ensign Peak and Arsenal Hill, half a mile from the heart of the city. Now, scrip can only take up land for agricultural purposes, and this claim is impudent beyond degree, but this land register entertains it, refuses to decide it, and so keeps back our entry. We are nearly or quite twenty thousand people; our city is as old as many great towns in the Mississippi valley; but here men are allowed to pre-empt farms right in the midst of us as if they meant to plow us under.

Correspondent:—What should I suggest, General Wells?

Mayor Wells:—Why the General Land Office ought to instruct this devilish Maxwell not to entertain these paltry claims, each of which is a paltry reproduction of claims already thrown out. The Government means to encourage the formation and building of towns, but this agent vetoes the law in the case of the largest town ever established on the public lands.

Here, [said the Correspondent,] General Wells left me and went over to the City Hall, returning in a few minutes with copies of the Land Office decisions in the two cases decided, signed by Willis Drummond and affirmed by the Secretary of the Interior. These decisions state that parties taking up land in the environs of town sites like Salt Lake City must take the risk of the lands falling within the town site, and that where churches, school-houses, public buildings and places of trade and commerce are established in the form of a town, the land is already selected and held in reserve under the act and can not be infringed upon.

Mayor Wells:—We have no complaint to make of Congress or the Land Office in respect to our right under the act. They have treated us well.

Correspondent:—As Mayor of the city, General Wells, do you meet with similar troubles in your municipal relations with the Federal Courts?

Mayor Wells:—Yes; in the estimation of the Chief Justice of that court there is but one crime in the world and that is polygamy. There is but one set of criminals and they are Mormons. He has mustered around him all the other vices, and adopted them as allies to move upon our one offense. Rum, prostitution, rapacity, incivility—these are the adherents of the Supreme Court of Utah in its holy war upon our marriage relation. The court entertains every complaint made against us. It gives Godbe an injunction forbidding us to sue him as a corporation and a score of unlicensed liquor dealers seem emboldened to defy us. The liquor-sellers have now, I am told, by the advice of the satellites of the court, raised a fund to sue the city when we interfere with them. The prostitutes newly landed among us rise up in that court to assail our ordinances. The court entertains every complaint, and those too preposterous to treat with seriousness it puts in its pocket and staves off, while crime takes advantage of the interregnum. Our Alderman's courts have been delegalized, and we are told by McKean that a Legislature has no right to bestow discretionary powers on a jury or a civic corporation. In short, Mr. Correspondent, there is an end in Utah to any equity before the law. The end of the law is to reach polygamy. All are hailed as friends of the Government, however notorious, who will leave the great and decent body of the Gentiles and persecute us. Our Probate Courts are declared to have no power to grant divorces, and yet Mr. Baskin, the United States Prosecuting Attorney, is married to a woman divorced by a Probate Court. But, then, we are Mormons! Finally professional murderers like Bill Hickman are permitted to give themselves up by collusion with the courts, and affect to turn state's evidence against us to prejudice us in the eyes of civilization.

Another passage from the same writer's correspondence and we will then resume the course of our regular narrative:

The present movement against Brigham Young at one time comprised a large portion of the Gentile and apostate population here, but nearly all these have fallen away, and the

ring is nearly left alone, with scarcely enough citizen material to get sufficient juries from it. The mines are ransacked to find people partial or ignorant enough to find verdicts according to the chargings of the court, and now the only reply the ring makes to the allegation that they are without followers, is that the timid property holders have fallen away from them. The ring people, however, possess no property unless "jumped" or prospective, and several of them are merely waiting for the spoils of violence.

Bishop Tuttle, the Episcopal functionary here, to whom Brigham Young gave a liberal subscription for the Episcopal chapel, as he gave \$500 to the new Catholic Church, is said to deprecate the precipitate action of the court, as does Father Walsh, the priest. Dr. Fuller, ex-Republican acting-Governor here, ex-Secretary and Governor S. A. Mann, Major Hempstead, District-Attorney here for eight years, and even General Connor, an old enemy of Brigham Young, express contempt for these sensational court processes. Connor has just written a letter to Hempstead, saying that this action was altogether unfortunate as a repressory measure. The late Chief Justice, Charles C. Wilson, is even more pronounced in his condemnation of the Court. I. C. Bateman and D. E. Buell, as well as the Walkers, the latter the leading merchants of Salt Lake apostates, and the former two great mining capitalists, are said to be of the same mind. Joseph Gordon, late Secretary to Governor Latham, calls the Court hard names. The large law firms are nearly all in like attitude. Every Representative and Senator west of the Rocky Mountains, including Cole, Williams, Corbett, Nye, Stewart, Sargent, and other Republicans, stand opposed to any measure which shall sacrifice Utah to blind bigotry without statesmanship. Mrs. Lippincott (Grace Greenwood), who is here, agrees with us in our mutual dislike of polygamy and of these "hot gospellers" and "notoriety hunters," who will not let it die ignobly, but must irritate it to renewed existence.

The first grist of indictments ground out by the grand juries of the Third District Court having been successfully unloaded upon the shoulders of the Mormon leaders, another lot of trumped-up processes, the product of the same mills, was now foisted upon the patience of the public and the pre-ordained victims of the anti-Mormon conspiracy. Some of these were the same parties who had already been indicted for "lewd and lascivious cohabitation," otherwise plural marriage, and whose cases were now pending in court. One of them was Daniel H. Wells, Mayor of Salt Lake City and a member of the First Presidency of the Mormon Church, who, on the afternoon of Saturday, October 28th—the same day upon which Thomas Hawkins received his sentence—was arrested by the United States Marshal under an indictment charging him with the crime of murder. Shortly afterwards Hon. Hosea Stout was arrested on a

similar charge, as was also General William H. Kimball. President Brigham Young had likewise been indicted for murder, but was not arrested at this time as he was absent from home, having started a few days previously upon his usual autumn and winter visit to Southern Utah.

These indictments had all been found upon the testimony of a man who, according to his own confession, was a red-handed and multifarious murderer. He had once been a Mormon, but had long since been severed from the Church, and was now in collusion with the crusading officials to bring trouble upon his former brethren, who had ostracized him for his crimes. Mr. Fitch, in drawing a pen portrait of this man, styled him "one of the most remarkable scoundrels that any age has produced, a man known to infamy as William Hickman, a human butcher, by the side of whom all malefactors of history are angels; a creature who, according to his own published statement, is a camp follower without enthusiasm, a bravo without passion, a murderer without motive, an assassin without hatred."

The *Chicago Post*, after the news of these indictments had gone abroad, having expressed itself to the effect that it would like to see Brigham Young and other Mormons "receive their just deserts," added: "It would be a little too farcical to convict and punish them for murder on the testimony of that notorious assassin and cut-throat, Bill Hickman. To take the evidence of the principal against an accessory is something never heard of in any respectable court."

The *Reese River Reveille*, upon the same subject, said: "Surely no intelligent and honest jury would attach any importance to the testimony of such a man." Other non-Mormon journals uttered similar sentiments regarding these vexatious proceedings against the Mormon leaders and their friends.

President Young, Mayor Wells, Hosea Stout, Joseph A. Young and two or three others were accused by Hickman of being accessory to the murder of one Richard Yates, at the mouth of Echo Canyon on the 15th of November, 1857. This, it will be remem-

bered, was during the period of the "Buchanan War." Hickman admitted that he himself had done the killing, but claimed that he was acting under the direction of others. According to the book entitled "The Confession of Bill Hickman," written by himself in 1871, but revised and edited by the notorious dime-novel romancer, J. H. Beadle, and published in 1872, the Yates crime occurred in this manner. Richard Yates was a trader on Green River. About the beginning of the Echo Canyon trouble he was taken prisoner by the Mormons as a spy. His capture occurred at or near Fort Bridger, while that post was yet in the hands of the Utah militia; Colonel Alexander, with the main body of the invading expedition, being encamped on Ham's Fork, and General Johnston, his superior officer, not yet having overtaken his command. Hickman and three others, having Yates in custody, started from Fort Bridger for Salt Lake City. Half way down Echo Canyon they met General Wells, who, it is alleged, remarked that Yates ought to be killed. Farther on down the canyon Joseph A. Young was encountered, who, according to Hickman, informed him that his father, President Young, wanted Yates killed. Reaching Colonel Jones' camp on the Weber, that officer, it is charged, told Hickman that he had received orders to have Yates killed. Here the story as to "orders" and suggestions for the killing ends; the narrator evidently not deeming it necessary to introduce any more messengers upon the scene with instructions relative to the murder of the prisoner. In the night, while Yates was asleep, Hickman brained him with an axe and he was then buried in his blankets where he lay; the murderer first taking care to possess himself of his victim's money—nine hundred dollars in gold. Hosea Stout, in Beadle's pictorial illustration accompanying the narrative, is represented as holding a lantern while Hickman uses the axe, and underneath are the words: "Hickman killing Yates by order of Brigham Young—Hosea Stout holding the lantern." The author of the narrative says nothing at all about a lantern, though he mentions Hosea Stout as being among a select few who witnessed the homicide. The crime, according to Hickman,

was committed near a camp-fire, and the murdered man's grave was dug by the light of it. The lantern idea was evidently a second thought—probably one of Mr. Beadle's own interpolations, he thinking perhaps that more light was needed upon a subject so dark to everybody but himself and Mr. Hickman. His right to illustrate the romance in any manner that he and his partner thought proper, we do not question. We only wonder that an experienced writer like himself did not take a little more pains and make his own representation and that of his brother novelist agree. The rest of the story is to the effect that Hickman carried the murdered man's money to Salt Lake City and presented it to Governor Young, who told him to give the sack containing it to his clerk. Hickman conveniently forgets who the clerk was, nor does Mr. Beadle come to his relief with a pictorial presentation to refresh his memory. "The money was counted and we left"—that is, Hickman and his companion, John Flack, who had all the Mormonism "knocked out of him" right then and there, because Governor Young refused to give them any portion of the nine hundred dollars, but told them that "it must go toward defraying the expenses of the war." Such was the substance of the tale that had caused the Grand Jury of the Third District Court, in September, 1871, fourteen years after the alleged commission of the crime, to indict President Young, Mayor Wells, Joseph A. Young and Hosea Stout for murder.

That they were guilty of the charge Judge McKean and his confederates would fain have had the world believe, in spite of their pleas of innocence, their well known uprightness of character, and their honorable and useful careers, as high above the life and habits of the miserable crime-stained wretch who was induced to play the part of their accuser, as heaven is above hades. It is an established fact, as already shown, that the militia who took part in the Echo Canyon war were under positive orders from General Wells and his superiors to "shed no blood," to "take no life," and that for political no less than humanitarian reasons it was a bloodless campaign that had been resolved upon by the Mormon leaders before a single

scout or ranger was ordered to the front. That they would contravene their own policy at the very outset of the campaign, is unreasonable to suppose; that they were capable of such a crime as the one alleged, either as principals or accessories, no one but a pronounced Mormon-hater, ready to lend a willing ear to anything uttered against a maligned and unpopular people, would believe. Judge McKean and others may have accepted Hickman's story as true; they were among the Mormon-haters to whom we refer; but if they did their credulity did more credit to their simplicity than to their sober judgment.

That a man named Yates was murdered at the mouth of Echo Canyon at or about the time specified, and that the murderer was William A. Hickman, is more than probable; in fact it could not very well be doubted in view of the murderer's own confession. But that he and a chosen accomplice or two, of his own ilk, were all that knew of or sanctioned it, and that he did it in order to obtain his victim's money, is doubtless the sum and substance of the whole matter. Hickman is known to have committed similar crimes with the same object in view.

After a lapse of fourteen years, during much of which period he lived apart from his kind, despised and dreaded for the many dark deeds that he was suspected or known to have perpetrated, the notorious and self-confessed thief and assassin found it to his advantage to take part in the crusade inaugurated against the Mormon leaders. His motive was revenge, a fact clearly shown by a perusal of his so-called "Confession." They had ostracized him and cast him out of the Church and it was his only chance to "get even with them." His testifying against them was clearly an act of retaliation. That he was promised immunity for his crimes—for which he had long been evading arrest—if he would implicate in a confession the heads of the Mormon Church, is evident to all who read between the lines of the sensational Hickman-Beadle publication; and this, notwithstanding the weak attempt at a denial, in advance of the accusation, made by the author or authors of the

tale. The following is an extract from that precious piece of mingled fact and fiction:

During this winter [1870-71] I got word often of Deputy Marshal S. H. Gilson seeking to see me. When I learned that, I did not think it policy to see him, as I had been informed he was one of the Deputies of M. T. Patrick, United States Marshal, and could not understand why he wanted to see me, unless it was to arrest me. So I declined to see him. He seemed determined, and called upon my son George and told him that if I would consent to see him he would go to any point I might direct without arms; and meet me and my friends armed. This seemed to me fair enough, and I concluded to see him without delay, and told my son to inform him of the fact. He did so and on the 15th of April, 1871, I repaired to his herd house, in Ferner Valley, sixteen miles west of Nephi, where his brother had a large band of horses.

Not being entirely satisfied about his intentions, I kept my arms in readiness for immediate use if any treachery was intended on his part. I found him in the cabin, about to sit down to his dinner. He arose and came towards me with extended hands, saying, "How do you do? Sit down and partake of such as we have." I became assured in a moment that he did not want to arrest me, and I sat down and partook of his fare. After dinner we took a stroll, and then I found the reason why he had sent for me. He informed me he was a detective whose purpose it was to find out the real criminals of Utah, that he had been in the work for about eighteen months, and had learned much, and had found out *how I had been treated in this country*, and that I could give the key-note to all the villainous transactions. He said he could not give me any hope of pardon for the many crimes in which I had participated, further than that he believed, if I made a clean breast of it, it would be greatly in my favor. I informed him that I had long wished for the time to come that I might unbosom myself where it would do some good; and I had confidence in him more than any other man that had ever talked to me on the subject.

I asked him whom he was relying on to put the thing through? He told me that R. N. Baskin was the man. This satisfied me, as I knew that Baskin was a man that did not know the word fail, at least would never give up beaten while there was a chance of success. I found Gilson to be a man that had had much experience in his life in his line and was well posted on the crimes of Utah. He was conversant on the most prominent cases and held the correct theory, that the leaders of the Church were the guilty party, and not the laymen. He conversed about many cases with which I was connected, and finally elected the case of Yates as the one on which we could with the greatest safety rely for prosecuting Brigham Young. I then gave him a full statement of the case and the names of the witnesses that would make the circumstances complete.

* * * * *

I then told him whenever I was wanted, to come for me and I would submit, and make full statements of facts as they were. On the last of September he came and arrested me and another man by the name of Flack. We were then taken before Chief Justice McKean for examination, which we waived, and were sent to Camp Douglas for safe

keeping. After we had been there some two weeks we were taken before the grand jury, and I made a full statement of all the crimes committed in this Territory that I knew of—as I have related them in this history—which statement, together with that of Flack's and others, caused the grand jury to find indictments against several persons, and it has caused many threats to be made on me.

It was at Camp Douglas, according to Hickman, while awaiting his trial for the murder of Yates, that he wrote the "Confession," which Mr. Beadle afterwards published. The words "how I had been treated in this country"—italicized by the present writer in the foregoing extract—plainly show the outcast murderer's motive, or one of his motives, in attempting to shift the burden of his own blood-guiltiness to other and innocent shoulders. That a man like William A. Hickman, so fearful of arrest and punishment that he led the life of a mountain rover, and so suspicious of treachery that he "kept his arms in readiness for immediate use" while conversing with a representative of the law, would have surrendered himself to its officers without something more substantial in the shape of a promise of immunity for his misdeeds than that represented to have been made by Deputy Marshal Gilson, is most improbable. Mr. Gilson may not have made him any promise of immunity,—we have never heard it alleged that he did, and certainly he would have had no right to do so unless authorized by his superiors; but that such a promise was given to the outlaw, on condition that he would "make a clean breast of it" and accuse the Mormon leaders, already pre-judged and condemned by the so-called "correct theory" as to their responsibility for "the most prominent cases" of crime in Utah, is reasonably certain. Hickman doubtless did as he was desired from a motive partly mercenary, partly out of revenge for the manner in which he "had been treated," and finally from a wish to be legally relieved of the danger of future prosecution.

What grudges, if any, he bore to such men as Hosea Stout, Joseph A. Young and Colonel N. V. Jones, whom he implicated in the Yates murder, does not appear. He may have used their names merely to give a show of credence to his narrative; it being well

known that they were in or about Echo Canyon at the time indicated. If his motive was revenge as to them, it doubtless sprang from some such circumstance as that in the case of William H. Kimball, the facts concerning which we will let that gentleman himself narrate. First be it known that this defendant was charged by Hickman with being an accessory to the murder of a man named Buck near the Hot Springs, north of Salt Lake City, during the winter of 1857-8. Hickman states that he and a man named Meacham killed Buck, but that George Grant and William H. Kimball brought him the word from President Young to "put the man out of the way." Upon this statement William H. Kimball and President Young were jointly indicted by the Grand Jury for murder.

"Bill Hickman's reason for implicating me in a charge of murder,"—said William H. Kimball to the author,—“according to his own admission made to me at Camp Douglas, was this. In the year 1858, after the close of the Echo Canyon war, I secured a government contract to carry freight between Camp Floyd and Salt Lake City. At the Point of the Mountain, south, on a cold, stormy night in autumn, one of my wagons was plundered by a gang of thieves, while the teamsters, at the request of a Mr. Robert Heriford, who lived near the Point, had taken refuge in his house from the inclemency of the weather. Among the articles stolen was a case of officers' cavalry boots, something new to the country, and of a style to render them conspicuous wherever seen. Some time afterwards I saw Bill Hickman and a number of his friends—who were known to be thieves—wearing several pairs of those identical boots, and about the same time Moroni Clawson and others—a gang of like character—came in sight also wearing some of them. After consulting with my partners, the Perry brothers, I decided not to prosecute the thieves, who were numerous and would have made my freight trains pay dearly for it in the future, had I taken any steps against them. I accordingly said nothing at that time but let the matter drop. One day I chanced to be in Gilbert and Gerrish's store, when Bill Hickman entered. He was quite sociable and asked me to take a drink

with him. I refused, for the very sight of the man and the memory of what he had done made me angry. "No," said I, "not with a low-lived thief and murderer." He reached for his pistol and threatened my life. I was unarmed but told him to shoot. He then put back his weapon, and Mr. Gilbert ordered him to leave the store. As he passed out he told me that he would settle the account with me yet. I never met him to speak with him from that time until we were both on parole at Camp Douglas in the fall and winter of 1871-2. One day he sent word that he would like to have a private talk with me. I replied by the messenger that Bill Hickman could not see me in private, but that I would meet him at any time in the presence of one or more officers of the post. He did not press the matter, but a few days later I met him face to face on the parade ground and offered to have the interview take place there. He slunk away, however, and would not talk. Some time later we met when there were two of the sentinels present and I then proposed that we have our conversation in their hearing. He agreed to that and I began by asking him what I was there a prisoner for? He asked me if I had seen his book. I told him that I had not seen it, nor had I heard anything of what it contained. I subsequently learned that it was not then published, though the manuscript had passed out of his hands. He informed me of the nature of its contents, and of what he had said about me, both in the book and in his testimony before the Grand Jury. I asked him if he did not know that he was lying when he said it. He answered 'My book is a lie from beginning to end,—from the boar fight through.' By 'boar fight,' he had reference to the first story told in the book, in which he is represented as killing, while a boy in Missouri, a wild boar—his first deed of daring. Said he: 'Do you remember when I asked you to drink with me in Gilbert and Gerrish's store, and you called me a murderer and a thief?' I told him that I remembered it and also his threat to get even with me. 'Well,' said he, 'I kept my word. You were right; I robbed your train; but I swore to have revenge for your harsh treatment of me. But I'm sorry now that I

did it, and that's what I wanted to say to you. I was bribed to write that book ; I was told that I could make fifty thousand dollars out of it, and that is why I did it."

The foregoing account, recorded in the author's memory as it fell from the lips of Mr. Kimball on the 15th of November, 1892, was read to him a few days before it was published, and he pronounced it correct in every particular.

Immediately after the arrest of Mayor Wells, on Saturday, October 28th, 1871, he went before the District Court, which was just about closing its afternoon session, and made application by his counsel, Mr. Fitch, to be liberated on bail. Judge McKean replied that it was too late to consider the question then, but that he would hear the application on Monday at 10 a. m. The same order was made in the case of Hosea Stout, who was subsequently brought in under arrest by the U. S. Marshal. The prisoners were consequently retained in custody. William H. Kimball, though arrested the same afternoon, was not taken before the court. The three were conveyed that evening to Camp Douglas, where they spent the Sabbath, and were well and kindly cared for by General Morrow, the commander of the post, who treated them with every courtesy and consideration. How that officer viewed the proceedings instituted against the gentlemen who were now his guests—for guests rather than prisoners they were—is indicated by the fact that the "prison" provided for them was in the officer's quarters, that officer's rations were issued to them, and that they were given the parole of the Camp. Moreover, General Morrow had them sit down to dinner with him upon the Sabbath, at his own family board, on which occasion he requested the venerable Mayor of Salt Lake City to ask a blessing upon the food. This act was quite in keeping with the character and conduct of General Morrow, whom the writer knew personally to be a big-hearted, broad-souled man, a gentleman in the true sense of the term.*

* An incident illustrative of this fact occurred in the writer's own experience. During the winter of 1871-2 I was in the employ of Z. C. M. I., whose Superintendent,

Monday morning, October 30th, the prisoners were brought to the city and taken before the District Court. Prior to their arrival, the hearing upon their application for a writ of *habeas corpus*, with a view to securing their liberation on bail, had begun. Major Hempstead and Mr. Fitch appeared for the accused, and Messrs. Baskin and Maxwell for the people.

The District Attorney took the ground that the court had not the right to admit to bail in this case, the indictment being for murder in the first degree.

Major Hempstead contended that the court did have that right. He claimed that the Grand Jury had erred in returning an indictment for murder in the first degree, a declaration as to the degree of the offense being properly the province of the petit jury, and that it was within the discretion of the court to admit to bail in capital cases except where the evidence of guilt was clear and the presumption strong. He showed that the principal witness in this case was one of the parties charged in the indictment, guilty, according to his own confession, of a blood-thirsty and diabolical crime, and

General H. B. Clawson, wishing to present General Morrow and his fellow officers with "the compliments of the season," sent to them on Christmas eve a number of fat turkeys and several baskets of champagne. I was entrusted with their delivery. It was a bitter cold night, but we, myself and a driver, set out, and in due season the express wagon arrived at the Fort. By this time we were nearly frozen. The subordinate officers—captains, lieutenants, and the like—received their presents first, but not one of them, though apparently pleased with the gift, said "thank you," or invited us in out of the cold. How different the reception at the house of General Morrow, their commander! "By g—d, boys," was the hearty salutation of the bluff, kind-hearted old soldier, as "the boys" made known to him their errand, "you shouldn't have come up here this cold night; come in and warm yourselves." We gladly obeyed, and the General forthwith placed at our disposal everything that his larder and side-board afforded. I am not sure but that he insisted upon our staying all night. At any rate it was not until we were thoroughly warmed and filled and fortified with coffee and cognac against the frosty weather, that he permitted us to again brave the cold and return to the city.

Mr. Kimball states that General Morrow advised him to keep strict account of his time spent at Camp, with all losses sustained by reason of his confinement, with a view to prosecuting the United States Marshal for false imprisonment, and that so fearful was Marshal Patrick that legal steps would be taken against him, that he went to Omaha and put all his property out of his hands in order to evade the possibility of such proceedings.

that the defendants, one of whom was the Mayor of Salt Lake City, though apprised by common rumor for a month past of the finding of the indictment, had made no attempt to escape or to evade arrest.

Messrs. Maxwell and Baskin followed, each in turn combatting the argument of Mr. Hempstead, and strongly opposing the granting of bail to the prisoners.

Mr. Fitch, who had prepared an elaborate plea, was just about to close the argument in behalf of the defendants, when Judge McKean spoke as follows:

“Without intending to have it regarded as a precedent in any other case, I will hold that I have power to issue a *habeas corpus* and bring these prisoners before me, and as they have come in, being brought here by an officer during the progress of the argument, I will regard them as being here on the return of a writ of *habeas corpus*. I will therefore say further, that although I was well aware, before this argument, that in Great Britain and in the United States a prisoner charged by indictment with a capital offense is almost never admitted to bail, still I was willing to be convinced that in this case it would be right to depart from the almost universal rule. Not only willing but anxious to be so convinced; nay, more, I have tried to convince myself by arguments, in addition to those of counsel, that it would be right and expedient to do so in this case.

“In the case of the People against Daniel H. Wells, his counsel properly say that the defendant is the Mayor of the city and is at the head of the police force. Camp Douglas, the place where prisoners awaiting trial in this court are usually detained, is some miles distant from the City Hall, and from the residence of the Mayor. In that camp it would be practically impossible for the Mayor to attend to any of the duties of his office, and therefore he could not be held responsible for the quietude and good order of the city. I will therefore admit him to bail. In the case of the People against Stout I will further consider the application and the arguments, and will reach and announce my conclusions hereafter.”

No sooner had Judge McKean announced his purpose of admit-

ting Mayor Wells to bail, than he was interrupted by a burst of applause from the spectators in the court room. The decision, so unlike most of the recent rulings of the Chief Justice, surprised everybody, and yet all or nearly all the citizens, Gentiles as well as Mormons, approved of, and recognized the cogency of the reason that prompted it. Of course there were some—vindictive and malicious enemies of the prisoners—who dissented from and criticised the action of the court. But they were in the small minority. Among them were the District Attorney, Mr. Baskin, and his assistant, Mr. Maxwell, who took little or no pains to hide their anger and chagrin at the unexpected turn affairs had taken. The application for a writ of *habeas corpus*, with a view to securing the release of the prisoners on bail, had been made, it appears, at the suggestion of Mayor Wells himself, who persuaded Mr. Fitch, against the latter's own judgment—he having no faith that the court would grant the request—to make the application. The outcome, therefore, was in the nature of a triumph, not only for the Mayor's sagacity, but for his supreme trust in Providence, which he believed inspired him to make the suggestion to his attorney.

The counsel for Mayor Wells now asked the Judge to fix the amount of bail in his case. Mr. Maxwell requested, nay demanded, in a rude and semi-savage manner, that it be placed at half a million dollars. "No," said Judge McKean, "the defendant may give bail with two sureties in the sum of fifty thousand dollars." The District Attorney and his assistant could not conceal their vexation. Said Mr. Baskin, biting his lip with suppressed anger: "If it should be found that the court has not power to grant bail in such cases, it seems to me, your honor, that the form of giving bail will be worthless, as it will not bind the prisoner if the court has not the authority to grant it." Judge McKean, however, maintained his position, stating that he had taken all things into consideration, and would not allow his present ruling to be cited as a precedent in any other case. Messrs. Baskin and Maxwell in disgust then quitted the court room. The bond, being prepared and signed, was duly

accepted, and the Mayor of Salt Lake City walked forth comparatively a free man.

Next day Judge McKean stated in open court that for what he considered good and sufficient reasons Mayor Wells had been admitted to bail, but that he did not deem it advisable to grant the same privilege to the defendants, Hosea Stout and William H. Kimball. Those gentlemen were, therefore, detained in custody, pending further proceedings in their cases.* The court then adjourned until the 13th of November. On that day the Supreme Court of the Territory held a session and affirmed the decision of the District Court in the Englebrecht case, Chief Justice McKean voicing the opinion. The case was then appealed to the Supreme Court of the United States.

Meantime President Young, over whose devoted head several indictments for murder, based upon the allegations of "Bill" Hickman, were hanging, was still absent in Southern Utah. With the understanding that his case would not be called up until the March term of court, and acting upon the advice of his attorneys, he had taken his usual autumn trip to St. George, there to spend the winter, his delicate health at this time particularly requiring the change of climate to be found in sunny "Dixie." His attorneys had given the advice in all good faith, having received the impression from Judge McKean, at the time when further consideration of the case was postponed, that it would not be called up before spring.† On the

* William H. Kimball states that the public prosecutor refused the offer of heavy bail made by his friends to secure his liberation, saying: "Fifteen minutes' testimony corroborating Hickman's statement against Brigham Young will release Mr. Kimball, but money never will." He also declares that certain parties interested in the Hickman-Beadle publication offered him money if he would leave the country at the time of these prosecutions.

† The Judge's language on that occasion was as follows: "It is right that there should be ample time to prepare, but counsel are aware of the fact that we have been in the habit, at the universal request of the bar, to hold adjourned terms of the court, and it is quite probable that I can make such arrangements at some future day as will be mutually satisfactory, and give both sides ample time for preparation; and without either granting or refusing the motion [Major Hempstead's motion for a postponement until the March term] I shall endeavor in some way to accommodate you, gentlemen."

strength of this understanding one of the attorneys, Mr. Fitch, had left the Territory and was now absent in the Eastern States. What, therefore, was the surprise, almost dismay of Major Hempstead and the others when, on November 20th, the case of the People *versus* Brigham Young, charged with lewd and lascivious cohabitation, was called in the Third District Court, and the Prosecuting Attorney announced that he was ready to proceed with the trial.

Major Hempstead. "If your honor please, we ask for the postponement of the case till the March term. We base the request upon the promise of the court; implying a grant of time to both sides until the opening of that term."

Mr. Baskin. "It is rumored, but it is only a rumor, that the defendant has gone outside the jurisdiction of this court. In case of his non-appearance I will demand a forfeiture of his bonds."

Major Hempstead. "President Young will be ready for trial whenever the court shall set down his case. With the understanding of his counsel that a reasonable time would be granted for trial the defendant has taken his usual winter journey to the south for protection of his health against the severity of the climate."

Mr. Baskin rebuked the counsel for the defendant for so advising him, and the court stated that it would take the request for further time into consideration.

A week later to a day the case was again called up. Major Hempstead stated that he had nothing to add to what he had already said upon the subject. The defense would be ready for trial at such time as the court might fix; but the defendant was three hundred miles away, and his counsel would therefore ask for as long a time as the court could grant, in order that their client might be able to appear.

Mr. Baskin insisted upon the forfeiture of the bonds.

Judge Snow, of counsel for the defendant, stated that they would only ask a reasonable time in which to bring him here.

The Prosecuting Attorney persisted in demanding that the bond be forfeited.

Mr. Hempstead remarked that if the gentleman was really in earnest in his desire to have the forfeiture, he himself could not believe it was for the purpose of having it heralded to the world that Brigham Young had forfeited his bail and fled from justice. He reviewed the ineffectual attempts previously made by the defense to have a day fixed for trial, and while conceding that the defendant was expected to appear in court day after day and await trial, he contended that no bail had ever been forfeited under similar circumstances, and that the forfeiture would now be unjust.

The Prosecuting Attorney argued that the defendant was bound to hold himself within the jurisdiction of the court, but that since five or six indictments for murder had been found against him he had disappeared; that according to the statement of counsel he was three hundred miles away and might be beyond the limits of the Territory; that counsel had no legal right to advise a prisoner to leave the jurisdiction of the court, and that the court could not take the word of counsel to account for the absence of a defendant who had absconded; that Brigham Young had not only technically but literally violated his bond and the forfeiture was asked as a legal right.

Judge McKean, however, refused to grant the motion of the Prosecuting Attorney, but fixed Monday, December 4th, at 10 A. M. as the time for the trial to begin. As this gave but a week in which to prepare, the defendant's counsel asked for an additional seven days, as they would need at least two weeks in which to notify their client, bring him to the city, and get ready for trial. "You should have considered those things before," answered the Judge, and cut short all further argument with the remark: "The time of the trial has been fixed for a week from today."

It was now being published throughout the length and breadth of the land that Brigham Young had forfeited his bond and fled from justice. The most extravagant tales were circulated concerning his conduct and whereabouts, and the courage and honor of the Mormon leader were called in question. All this while the object of attack.

who had left Salt Lake City in broad daylight, unaware, except from certain vague rumors, that he had been indicted for capital crimes, and as innocent of any intent to defeat justice by his departure as he was guiltless of those crimes, was peacefully sojourning at his winter residence in "Dixie," waiting for the advent of spring that he might return to meet and confound his accusers. Among the journals which had much to say concerning President Young at this period was the New York *Herald*. It drew upon a more reliable source of information, however, than its Salt Lake correspondent, Mr. Oscar G. Sawyer, and was therefore enabled to place before its readers the truth regarding affairs in Utah. Its issue of November 16th contained the following interesting interview between a *Herald* reporter and Hon. Thomas Fitch:

The Hon. Thomas Fitch, leading counselor and attorney for Brigham Young, stopped at the St. Nicholas Hotel on Tuesday night, and left on Wednesday to keep a lecture engagement at Bennington, Vermont.

As Mr. Fitch is directly from Salt Lake City, and acquainted more directly with the Mormon situation in its legal aspects than probably any person in the country, a *Herald* reporter was sent to sound him on the crisis. He occupied a cosy parlor with his wife, a lady of fine literary culture and spirituelle face. Bishop Sharp, Hon. W. H. Hooper, and one or two Gentiles on good terms with the Mormons had left their cards upon the table. Mr. Fitch is a heavy set, Italian-looking young man, with fine chestnut brown eyes, a brown and red complexion and a black moustache. He was very free and natural in his manner, but avoided close inquiries as to the habits and character of the Federal officials in Utah.

"Mr. Fitch," said the *Herald* representative, "are you the sole counsel for Brigham Young?"

"No, sir, my firm (Fitch and Mann) probably lead in his business at Salt Lake. Besides he retains Hempstead and Kirkpatrick, Snow and Hoge, Miner and Stout, and Le Grand Young. Our attorney at Washington City is Curtis J. Hillyer, of Nevada. All the above are Gentiles except Snow, Young, Miner and Stout."

"Was it by your advice that Brigham Young suddenly left Salt Lake for Southern Utah?"

"Not especially. I think it was prudent, however, under the circumstances. Brigham Young makes a sort of tour of the churches and settlements every year as far as St. George, on the border of Arizona. He had started when he ascertained that the Grand Jury had indicted him for lewd and lascivious conduct and cohabitation, but he immediately returned, waited quietly to be arrested, and on his following arrest he gave bail in the sum of \$5,000. Then hearing that other indictments on old and trumped-up

charges of murder were being prepared, he waited three weeks to see them produced. He finally sent for U. S. Marshal Patrick and asked him if he had any such indictments. Patrick replied that he had not. Mr. Young then said that he was prepared for the annual trip, and as the court had indicated to his counsel a postponement of the trial on the existing indictment until late in the winter, he thought of making no further delay. He departed in his carriage in broad daylight. I saw him go myself. After he had gone a day or more, Judge McKean took out of his pocket an indictment that had lain there in secrecy for a month, and issued a warrant upon it for his arrest for murder. Hence the hue and cry for the alleged flight. It is ridiculous, and has been telegraphed east to injure the old man."

"Was it legitimate for Judge McKean to keep an indictment so long concealed?"

"No. Utterly unprecedented. The Grand Jury found the indictment on the 28th of September; the warrant was delayed until the 28th of October. Such concealment is never used except when the defendant is supposed to meditate escape, but there was Brigham Young waiting all the time to be arrested."

"Will he probably return and submit to arrest and incarceration at Camp Douglas, on the unbailable charge of murder?"

"He may; but I shouldn't blame him if he refused to walk into this dead-fall."

"Why do you say dead-fall?"

"Because under the jury-packing system now practiced in Utah, and the rulings and chargings of the court, he has no chance whatever. In fact he has been found guilty in advance; for when McKean opened this term of court he said that the institution and system of the Mormon Church were on trial; and made a harangue against them."

"What is the general estimate of McKean among the legal fraternity of Utah?"

"He is a fanatic, without much knowledge of law, determined to secure convictions of these people at whatever cost. He believes the end justifies the means; thinks he is sustained by the Administration; that it is his religious duty to crowd the Mormons hard, and he has also, he supposes, a chance to gain a great political reputation. He is a very determined man, however, of considerable personal courage, but not fit to be a judge. He is a preacher and an elocutionist."

"What are said to be his ambitions?"

"Political promotion in the east, either in New York State or at the President's hands."

"Are the two other justices more impartial?"

"I have not sufficient knowledge on that head to answer intelligently. Strickland acquiesces with McKean uniformly. Hawley differs from McKean, with respect to the Mormons, only that he would reach the same end less boldly and with more semblance of regard to legal precedents."

"Do these justices show any feeling of sensitiveness as to the severe criticisms passed upon them by eastern jurists?"

"Well, they think that the American people are indifferent about the means of extirpating Mormonism, so it be killed off. They do not know enough law to care for professional estimation. They are popularly said to 'jump' mines and precedents with equal facility."

“What took you from Nevada to Utah, Mr. Fitch?”

“Mining litigation. I moved there May 1st. My connection with the Mormon trials probably followed from my position on the Cullom bill in Congress last winter, when I made the only speech against its passage on the Republican side. I opposed it because it took the selection of juries out of the hands of the local officers and out of the scope of the law of the Territory. It made the United States Marshal the despot of Utah, and excluded from the jury box nineteen twentieths of the people. And yet Judge McKean, by his rulings, has passed the Cullom bill in advance of its passage by Congress, and Mr. Baskin, the author of that bill, is actually the United States Attorney in Utah, getting convictions under it.”

“You do not appear to place faith in the newspaper letters from Utah?”

“No. They are Munchausenisms, which tickle us at home, while they probably do hurt at a distance. The Federal officials write most of them. These old murders are supported by the evidence of the desperado who did them, and that of Yates happened fifteen years ago in the Mormon war, which the Administration of that time passed over. Is there any reason clearer than this that the present court has come to make havoc and will go any length to do it! The very order and prosperity of the Mormons are hateful to them.”

“Do you have any sympathy with polygamy?”

“None. In my speech in the Hawkins' case I called it a ‘cruel and encompassing system of barbarism,’ whether endorsed in the Old Testament or the Mormon revelation. There are allowances for it there, however. When the Mormons went to Utah the women were in excess, and it devolved upon a man to take care of more than one to keep the unmarried from starving. It was preached as a religious ordinance to credulous people, and was practiced remote from monogamous mankind. They did not begin it with criminal intent. Society has caught up to polygamy, and its hours are numbered; but what is the use of galloping over all law and decency to make martyrs and seed for it? Why treat it with the spirit of preachers and zealots, instead of as statesmen and surgeons? Save the life of Utah—its frugal and temperate labor, its acquisitions and its uses for all the mines and settlements of the central continent! Those are my sentiments.”

“What is the value of Utah?”

“Well, its mines are equal in value to those of Nevada, which have produced from \$120,000,000, to \$150,000,000. The real estate, capital, etc., are probably not less than \$70,000,000. And this is Mormon work. Labor in Utah in the mines cost only two dollars a day or half as much as all around us.”

“Do you think an exodus from Utah was ever contemplated.”

“Yes, I know it was debated. But Brigham put his foot on it. It is not required. Every interest of Utah has been disturbed, however, by these crusaders.”

“What is the solution of the thing?”

“Self-government. Admit them as a State, under a constitution enacted by themselves, relinquishing for all the future polygamous marriages. Follow the advice of Hamlet ‘Those that are married already shall stay married.’ The mere discussion of this constitution prior to its enactment will shed more light on the error of the thing than all the

judicial terrors of our courts, and if the Mormons ever agree to give up polygamy they will do it without mental reservation and in perfect candor and simplicity."

"What will be the political complexion of such a State?"

"Extraordinary. It is a State without partizanship, and it will vote for Presidential electors in the spirit of the old electoral provisions—that is, looking to the character of the electors only, and leaving them uninstructed as to their preference among candidates. You see all politics has been shut out of Utah. Our newspapers take no sides in it, and the Mormon people are of neither party."

"To return to the Federal court, Mr. Fitch. Is it impartial among the lawyers?"

"That, it don't become me to say. We had a funny thing there about the time I left. Mr. Miner, a Mormon lawyer, moved an arrest of judgment in the Hawkins case, and among other things said an officer of the court had played poker with the jury. The judge said this was slanderous, and unless apologized for Miner should be disbarred next day. I believe, however, it was confirmed, on inquiry, and the judge, in his best elocution forgave Miner with censure."

"Is the practice of McKean's court embarrassing?"

"Yes, Judge McKean is only a sort of missionary, exercising judicial functions. We never expected him to be unprejudiced, but we supposed that he might like to appear consistent. You see, in the first instance, after hearing an argument upon the point at law, he declared that he was a United States court, that the Territorial Legislature had no power to prescribe rules for his court as to selecting juries, and that he would not draw juries but by open venire and selection, as in United States courts. We lawyers put up with this and expected him to hold on consistently to it, so that we should prepare our cases as for a United States court."

"How did he violate his decision?"

"Why, he resolved himself into a United States court for all purposes prejudicial to Mormon defendants, and whenever the Territorial law was severer on them than the laws of Congress, he resolved back again into the Territorial court. For example, the United States laws give the defendant ten jury challenges and the prosecution only two; while the Territorial law allows six and six. The United States statute of limitation disbars all but capital crimes after two years of non-prosecution, while the Territorial law bars nothing. Now, McKean wants a Territorial court to challenge the jury and prosecute after many years by Territorial permission, but a United States court to empanel a jury, etc. He played shuffle with jurisdiction and demonstrated to Mr. Young's counsel and those of other indicted polygamists that he would be bound by neither law nor consistency, but would do whatever he had the physical power to do to secure a conviction. Therefore, I say, as counsel to Brigham Young, that if he does absent himself from such a tribunal until the United States Supreme Court at Washington passes on a test case we have sent there, he will only anticipate the advice of his counsel."

"What is that case?"

"Englebrecht *vs.* Clinton and others—in all twenty defendants. The prosecutor is a liquor seller who defied the municipal license law of Salt Lake, and by the provisions of a Territorial statute brought suit for the destruction of his stock "maliciously" by Justice of the Peace Clinton and a *posse comitatus*. The jury was packed by the

Marshal's manner of drawing, and for \$19,000 worth of liquor Englebrecht got a verdict of \$57,000. The Justice's process was legal on its face and not malicious. The verdict was therefore atrocious, although confirmatory of the law which allows three times the value of destroyed property. We expect an early hearing of this case to test the validity of the jury abuse which is involved in all other trials."

"This manner of packing juries by personal selection gives great power to the Marshal, does it not?"

"Certainly. The Marshal (Patrick) is a good man and popular; but any of his deputies, no matter how corruptible, can also pack a jury. The facilities for corruption are, therefore, such that out of many great mining litigations in his court, not one as yet has come to trial, the contestants not daring to proceed. Our community is filled with adventurers, attracted by the mines, who own nothing on the spot. A purchasable deputy marshal can make a jury of these, buy them beforehand, make his pick from them and affect the titles to property worth millions."

"How should the juries be picked?"

"According to the law of the Territory—by lot. The statute of the United States says the manner of choosing in Federal courts shall assimilate to that of the State or Territorial courts within which the particular United States court may be. Mr. Attorney Hillyer, therefore, asked McKean to charge the Marshal to select from the assessment roll by lot. McKean refused to assent. In Brigham Young's case the Marshal went out and ransacked for twenty-three jurors; three out of this picked lot were discovered to be Mormons, and McKean ruled them off."

"What was the actual title of the offense against chastity for which Young was indicted?"

"Lewd and lascivious conduct and cohabitation—an old statute made to protect Mormon decency. There is but one such statute in terms in any State code—Massachusetts—and this has been interpreted by the courts to apply only to open licentiousness, and not to secret cohabitation. The offense meant is against public decency, not chastity. The court wanted to indict Young for adultery, but could not get one of his wives to complain. They would not indict for polygamy because the second marriage could not be proved, being secretly performed. The old man, therefore, is made to pass under a law he signed as a polygamist and which was passed by polygamists."

Here some interruption happened and we broke off a very interesting conversation.

Prior to this time, the reader will remember, there had gone abroad statements, similar to those of Mr. Fitch, from such influential personages as Senator Morton, Grace Greenwood and others regarding the illegal and reprehensible methods pursued by Judge McKean and his fellow crusaders. So weighty were these utterances, reinforced by the views of Senator Lyman Trumbull and other statesmen who saw the necessity of putting an estoppel to the outrageous conduct of the McKean-Baskin coterie, that the author-

ities at Washington now began to take steps towards purging and regulating judicial matters in Utah. The first indication of this change of policy was the appointment by President Grant, late in October of this year, of a new District Attorney for the Territory, to supersede Mr. Baskin, who, as shown, had received his appointment from Chief Justice McKean.* It seems that Colonel J. H. Wickizer, postmaster of Salt Lake City, had been offered the position but had declined it, and that subsequently Judge McKean had endeavored to secure it for the acting incumbent, Mr. Baskin. This effort proved futile, for the President, on the 28th of October, appointed George C. Bates, Esq., to be United States District Attorney for Utah. Mr. Bates was a gentleman between fifty and fifty-five years of age, an able lawyer and an old-time friend of General Grant. He was a native of the State of New York, had once resided in Michigan, but for some years had been a citizen of Chicago. Mr. Bates arrived at Salt Lake City on the 30th of November, was admitted as a member of the Utah bar on December 1st, and on Monday the 4th, the very day set for the trial of Brigham Young, presented to Judge McKean

* That the course pursued by Judge McKean and his associates was not altogether displeasing to President Grant, who was very much in earnest in his desire to stamp out polygamy and reconstruct Utah, is evident from the following paragraph of his message to Congress in December of this year :

“THE UTAH DIFFICULTY.

“In Utah there still remains a remnant of barbarism repugnant to civilization, decency and to the laws of the United States. Territorial officers, however, have been found who are willing to perform their duty in a spirit of equity and with a due sense of sustaining the majesty of the law. Neither polygamy nor any other violation of existing statutes will be permitted within the territory of the United States. It is not with the religion of the self-styled Saints that we are now dealing, but their practices. They will be protected in the worship of God according to the dictates of their consciences, but they will not be permitted to violate laws under the cloak of religion. It may be advisable for Congress to consider what, in the execution of law against polygamy, is to be the status of plural wives and their offspring. The propriety of Congress passing an enabling act authorizing the Territorial Legislature of Utah to legitimize all born prior to a time fixed in the act, might be justified by its humanity to the innocent children. This is a suggestion only, and not a recommendation.”

his commission from President Grant, took the required oath, and entered upon the duties of his office.

Immediately after taking the oath, Mr. Bates addressed the court and said: "I now ask your honor, in the case of the People *versus* Brigham Young, which I understood was assigned for trial this morning, that the defendant be called, to give him an opportunity to be heard, if here, and if not that his recognizance be forfeited."

Mr. Hempstead. I waive the calling.

Mr. Bates. I ask that his recognizance be forfeited and judgment of forfeiture be entered thereon.

Mr. Hempstead protested against the forfeiture, and this led to a brief discussion of the matter, pro and con, after which Mr. Bates said: "I would like to ask a question of my learned brother, Major Hempstead. Do I understand you to state here, on your professional responsibility as an officer of this court, that the defendant will be forthcoming to answer to this and any other indictments against him within any reasonable time from this day?"

Mr. Hempstead. That is certainly my understanding and my firm belief, as I have already stated; and Mr. Bates has known me sufficiently long to know that I would not make such a statement on my professional integrity unless I had abundant reasons for making it.

A consultation between the U. S. Attorney, Messrs. Baskin and Maxwell and the court ensued, after which the Judge said: "It is nearly three months since this term of court commenced. A great many papers have been placed in my hands, which, owing to press of business, and sickness in my family, I have been unable to examine. I need time to examine them, and also for rest, and to do this I should like an adjournment of the court."

Mr. Bates. I too should like to have a short time to examine into important matters connected with my duties in this court.

Judge McKean. Some days ago an application was made in the case of Thomas Hawkins for the court to fix the amount of bail, and

also to issue the mittimus. I took it under advisement, and I will this morning fix the bail, which is pending an appeal, of course, at twenty thousand dollars, with two sufficient sureties, and grant the application for the mittimus to be issued.*

Then followed a brief dialogue between the Judge and Major Hempstead as to some definite time when the defendant, President Young, could be expected to arrive.

Mr. Bates. As to the trial of these important cases, and I need not say to this court that they are perhaps the most important cases ever tried in this country, and the questions involved in them are of such a delicate character that the eyes of the world, I may say, are on this tribunal, I shall be entirely opposed myself to the postponement of these trials until March. If the counsel for the defendant are satisfied that he can and will be here, I shall be perfectly willing to set them down, say for the first Monday in January, or possibly the second Monday. I would not consent to go beyond that, because there are matters of grave public interest connected with them.

Mr. Hempstead stated that all they asked was as much time as the District Attorney and the court could give them, and Judge McKean, having briefly reviewed the history of the case, then suggested Tuesday, the 9th of January, the date to which the Grand Jury had already adjourned, as the time for trial.

Mr. Bates. Then I desire to give public notice that on the 9th day of January I shall move on the trial of Brigham Young, on the indictment for murder, and all other criminal cases that stand on the calendar to follow in succession as rapidly as the court can dispose of them.

The court then adjourned until the 9th of January.

The new District Attorney now had time to examine into the circumstances surrounding his position. One of his first discoveries was that there were no public funds with which to carry on the business of the Federal Courts, and that the United States Marshal

* Thomas Hawkins was unable to give the required bail, and it was afterwards reduced to \$5,000, which was furnished and he was liberated from prison.

and others had been providing out of their private purses means to defray the expenses so far incurred in the prosecution of the Mormon leaders. The amount thus advanced had now reached the sum of fifteen thousand dollars, more than half of which had been furnished by Marshal Patrick. Mr. Bates immediately laid this matter before the Attorney-General at Washington, his letter to that official bearing the date of December 4th, the very day that he assumed the duties of District Attorney, and upon which occurred the incidents last narrated. On that day also, Senator Cragin introduced into Congress his second anti-Mormon measure, referred to in a former chapter. Under date of December 14th the Attorney-General answered Mr. Bates, stating that he had called the attention of Senator Cragin to the difficulty in regard to funds, and he hoped that Congress would afford prompt relief. At Mr. Bates' suggestion the Cragin bill was amended for that purpose. He also asked by telegraph for the appointment of Mr. Baskin as his assistant, to which request the Attorney-General responded as follows:

WASHINGTON, December 20th, 1871.

George C. Bates, Esq. U. S. Attorney, Salt Lake City, Utah:

Your letter of the 10th instant is received.

I have answered by telegraph that you are at liberty to employ Mr. Baskin, and I herewith enclose a commission for him.

Under the circumstances I do not feel at liberty to employ other additional counsel.

The Government ought not to show any unseemly zeal to convict Brigham Young; and the addition of two lawyers to the regular professional force of the Government in Utah might have that appearance. The propriety of the employment of Mr. Baskin is obvious, he having prepared the cases.

In answer to your other letter of the same date, I have to say that it seems to me wrong in principle to covenant with regard to bail, while the accused is absconding. When a man submits himself to the law, it is time enough to consider what amenities he may receive under the law. Should Mr. Young be arrested, the question of bail will be altogether a judicial one to be decided by the court upon the principles which would operate in the case of any other accused party.

Very respectfully,

A. T. AKERMAN, Attorney-General.

The following letters from the Attorney-General to District Attorney Bates tell their own story:

WASHINGTON, December, 20th, 1871.

George C. Bates, U. S. Attorney, Salt Lake City, Utah,

Sir:—Your letter of the 11th instant is received.

I am troubled on account of want of funds to carry on the Territorial prosecutions. The accounting officers of the Treasury, adhering to usage, do not feel at liberty to allow the marshal credit for expenditures for prosecutions under Territorial law. This is perhaps inconsistent with the just deduction from the recent decisions of the judges in Utah.

As the only thing I can do to help you, I have made the matter the subject of earnest representation to the chairmen of the Territorial committees in Congress; and I will communicate to them the contents of your last letter.

Very respectfully,

A. T. AKERMAN, Attorney-General.

WASHINGTON, Dec. 27th, 1871.

George C. Bates, Esq., U. S. Attorney, Salt Lake City, Utah,

Sir:—I have received several letters from you on the subject of the expenses of the courts of Utah in Territorial prosecutions.

In consequence of the construction hitherto followed by the accounting officers of the Treasury, I have no power to provide the necessary funds. I have done the only thing that seemed possible in the matter, which was to bring the subject to the attention of the Committee on Territories in the two houses of Congress and to urge prompt action.

Very respectfully,

A. T. AKERMAN.

Mr. Bates continued pressing the matter of a lack of funds to carry on the pending prosecutions, and for this purpose addressed the following letter to Hon. Lyman Trumbull, chairman of the Senate Judiciary Committee:

SALT LAKE CITY, UTAH, Dec. 30th, 1871.

Hon. Lyman Trumbull, chairman judiciary committee of the Senate,

Sir:—It is my duty, as the United States district attorney for this Territory, to ask, through you, and your committee, advice and instruction upon the following points:

I. Under the decisions of the supreme court of this Territory, (from which there is no appeal) all felonies committed within its limits are offenses against United States laws, to be punished only by United States courts, their processes to be levied by the United States marshal, and prosecutions conducted only by me as the United States district attorney; and, of course, all expenses of the trials must be paid out of the U. S. treasury, if paid at all.

II. Under the Territorial courts, as such, the officers of the several counties are all Mormons, who it is said, will not punish their fellows or leaders for high crimes at all, and do frequently punish Gentiles unjustly and unfairly; and so unless the United States

courts prosecute criminals, anarchy must soon exist here, and neither life nor property will be safe.

III. The United States comptroller, disregarding the ruling of our supreme court here, decides that all these offenses are against Territorial laws, to be punished only in Territorial courts by the Territorial officers thereof, and that the United States treasury must not and shall not pay one penny of these costs; the result of which is that all jurors and witnesses' fees and contingent expenses of these courts for the last year are unpaid, and there is not a cent to pay them for either the past or the future.

IV. January 9th, 1872, is set by the court for the trial of Brigham Young and others for murders and others crimes, and twenty other criminal causes are assigned for that time; and I, as U. S. district attorney, am required to try these great causes, while there is no money to pay either the jurors, witness fees, or any of the contingent expenses of the court, such as rent, fuel, lights, etc. How can I go to trial without witnesses and jurors? And how can their attendance be secured without money?

V. A grand jury is required forthwith, in the First District, to investigate several murders, castrations, and other horrid crimes, and a venire is ordered; but the marshal has no money to serve it, the witnesses and jurors will not come into court unless paid therefor, and we have no money to pay them. What must I do under these circumstances?

VI. The United States have no jail, penitentiary or place to keep safely their criminals, except Camp Douglas, and the cost of keeping them there and transportation to and from the courts makes a rapidly accumulating debt for some one to pay, which already amounts to \$15,000, a large part of which has been advanced by the present marshal, and is due now to him, and to jurors and witnesses.

VII. Under these circumstances, I see no other course for the Government to pursue than to provide money instantly to pay all jurors, witnesses and the daily expenses of prosecution of these great crimes, or to order them all dismissed forthwith from the United States courts. Am I right? Please answer.

GEORGE C. BATES,

U. S. District Attorney.

The United States Solicitor-General wrote to Mr. Bates about this time in relation to the dead-lock in the Utah courts. Here is a copy of his epistle:

WASHINGTON, December 25th, 1871.

MY DEAR SIR:—Your several letters relative to the business of your office have been turned over to the attorney-general, with request that he give you all possible support and assistance, which, I am happy to say, he will do most cheerfully. I do not see how the matter of compensation can be satisfactorily adjusted without further legislation. It seems that while your court holds it to be your duty to prosecute parties charged with violations of Territorial statutes, the comptroller, who settles the accounts of district attorneys and marshals, holds that the United States cannot pay the expenses of such prosecutions under existing statutes. Thus we have a deadlock which no power but Congress can unlock

If it should ever happen that I can serve you I trust you will not hesitate to command me.

With my best wishes for your personal and professional success, I am,

Very sincerely, your friend,

B. H. BRISTOW.

Gen. Geo. C. Bates, Salt Lake City.


Thus it will be seen that the prospect for obtaining funds with which to push on the prosecutions against President Young and his brethren, at the close of the year 1871 was very little if any better, so far as Congress was concerned, than it had been at the time those proceedings were begun. As matters now appeared, it looked as if Marshal Patrick and his friends must continue feeding the furnace of Judge McKean's court with financial fuel—a proceeding of which they were evidently growing somewhat weary—or else the cases against the Mormon leader and his co-defendants, in spite of Judge McKean's and Attorney Bates' wishes to the contrary, must be postponed until March, if not longer. That the same view was taken by Mr. Bates, and that the cases in question, with all other criminal business pending in the Third District Court, were deferred in consequence until the spring of 1872, will be shown in the course of another chapter.

CHAPTER XXIII.

1872.

PRESIDENT YOUNG RETURNS AND CONFOUNDS HIS ENEMIES—HE SURRENDERS FOR TRIAL AND ASKS TO BE ADMITTED TO BAIL—JUDGE MCKEAN REFUSES THE REQUEST—THE MORMON LEADER A PRISONER IN HIS OWN HOUSE—MARSHAL PATRICK'S COURTESY AND CONSIDERATION—THE CASES AGAINST PRESIDENT YOUNG AND OTHERS POSTPONED—THE SECOND INVESTIGATION INTO THE DR. ROBINSON MURDER—ARREST OF ALEXANDER BURT, BRIGHAM Y. HAMPTON AND OTHERS PENDING THE ISSUE OF THE INVESTIGATION—THE WITNESSES BAKER AND BUTTERWOOD—A DESPERATE ATTEMPT TO CONVICT INNOCENT MEN—NOTHING PROVEN AGAINST THE ACCUSED, BUT THE ANTI-MORMON GRAND JURY INDICTS THEM—BAKER A SELF-CONFESSED PERJURER—HE GOES TO PRISON FOR HIS CRIME—JUDGE MCKEAN'S SECOND REFUSAL TO ADMIT PRESIDENT YOUNG TO BAIL—THE BATES-MCKEAN CONTEST AT WASHINGTON—THE ENGLEBRECHT DECISION—ALL INDICTMENTS QUASHED—MCKEAN'S HUMILIATION—NON-MORMON REFUTATION OF ANTI-MORMON SLANDERS.

“Ye doubtless thought, judging of Roman virtue by your own, that I would break my plighted faith, rather than by returning and leaving your sons and brothers to rot in Roman dungeons, to meet your vengeance. Well, I could give reasons for this return, foolishly and inexplicable as it seems to you. I could speak of yearnings after immortality—of those eternal principles in whose pure light a patriot's death is glorious, a thing to be desired; but, by great Jove! I should debase myself to dwell on such high themes to *you*. If the bright blood which feeds *my* heart were like the slimy ooze that stagnates in *your* veins, I should have remained at Rome, saved my life, and broken my oath. If, then, you ask, why I have come back, to let you work your will on this poor body, which I esteem but as the rags that cover it—enough reply for you, it is *because I am a Roman*.”
—*Extract from 'The Curse of Regulus.'*

 HE astonishment of the Carthaginians over the unexpected return of Regulus, their heroic prisoner, whom they had sent to Rome to sue in their behalf for peace, but who, instead of obeying their behest, had urged his countrymen to continue the war to the utter ruin of Carthage, and had then come back, according to his promise in case peace did not follow, to meet the cruel fate that awaited him, was not much greater than that of the anti-Mormons, when it became known, just as the new year dawned, that Brigham

Young, the alleged fugitive from justice, had returned to surrender himself to his persecutors, to face in open court his accusers and stand trial before a biased judge and a hostile jury upon the charges that had been laid at his door. Yes, it was even so; in spite of every prediction and expectation of his enemies to the contrary, the Mormon leader had come back, as he intended doing when he departed; though his return, in order to redeem his pledge, to relieve his bondsmen, and to honor the requisition of the law, was fully two months earlier than he had anticipated at starting. Nearly four hundred miles in mid-winter, traveling almost the entire distance by team, through mud and sleet, through frost and snow and winter's biting blasts, he had come to confront and confound his foes.

"Naturally," said the Salt Lake *Herald*,—referring to the President's return, his appearance in court, and the surprise thereby created among his enemies,—“naturally they took a good look at his countenance. Could this be a sham appearance? Was it not a counterfeit Brigham come into court to cheat them of their prey? No, they were too familiar with the calm, kindly and genial face of this venerable man, who had come here in open day to face his persecutors—had come through tempests and torrents and snow-slides, a distance of nearly four hundred miles, to show the little terriers who had been barking at him, that, strong in the conviction of justice and right, he had faith in the ultimate verdict of the people, and in the protecting care of that Providence in whose trust he had never been deceived through a long and most eventful career.”*

It was on the 2nd of January, 1872, that President Young came into court where Judge McKean was sitting in chambers, and asked

* Elder A. M. Musser, who was of President Young's party, states that on the evening they arrived at Beaver, on their way north, General P. E. Connor also reached that point en route from Pioche to Salt Lake City. Elder Musser requested that he say nothing of the coming of the President, in order that the latter's intention to voluntarily appear in court might not be thwarted. The General readily acceded to the request, and added: "Tell President Young that if he wishes it I will go his bail, even if it amounts to a million dollars." He kept his word and maintained secrecy regarding the President's movements, and would doubtless have met the conditions of his other offer had the opportunity been given.

by his counsel to be admitted to bail in the case of the People *versus* William H. Kimball and others, with whom he had been jointly indicted on a charge of murder. Just prior to the arrival of District Attorney Bates, and while President Young was still absent in Southern Utah, a motion to quash this indictment had been made by the defense and argued before Chief Justice McKean. The grounds for the motion were as follows:

First. That the said indictment purports to charge the crime of murder against the said defendants under the statute of said Territory, yet the grand jury in the margin thereof have designated the degree, to wit: murder in the first degree.

Second. That there is no addition, or description therein of this defendant or of either of his co-defendants.

Third. That said indictment is vague, indefinite and uncertain in this:

1st. The date of the alleged offense is nowhere therein laid with certainty, but the same is laid under a *videlicet*.

2nd. There is no allegation therein that the deceased was a living human being at the time of the alleged assault and homicide.

3rd. That it does not appear therefrom whether the said Buck, if killed at all, was killed by the said William A. Hickman with a pistol, or by the said Morris Meacham with a knife.

Fourth. There is no allegation therein that any of the defendants conspired together, or that this defendant, or either of the said defendants, except only the said William A. Hickman and the said Morris Meacham, was or were present aiding or abetting, or was or were accessories before the fact of compassing the death of said Buck; or was or were otherwise unlawfully connected with said homicide, but on the contrary it appears affirmatively from said indictment that the said homicide was committed by either the said Hickman or the said Meacham, and not by the other defendants herein pleaded, or either of them.

Fifth. The said indictment is otherwise uncertain and indefinite, particularly in this, that in one count it alleges a murderous assault and wounding first by said Hickman with a pistol, and secondly by said Meacham with a knife, and the death of said Buck by reason of said wounds.

Sixth. There is no allegation of malice aforethought or otherwise on the part of this defendant William Kimball or either of his said co-defendants, except only the said Hickman and the said Meacham.

Seventh. There is no allegation that the leaden bullets with which said wounds are alleged to have been inflicted, were discharged out of the pistol in the hands of said Hickman, without which it is impossible that the said Buck was wounded as set forth in said indictment.

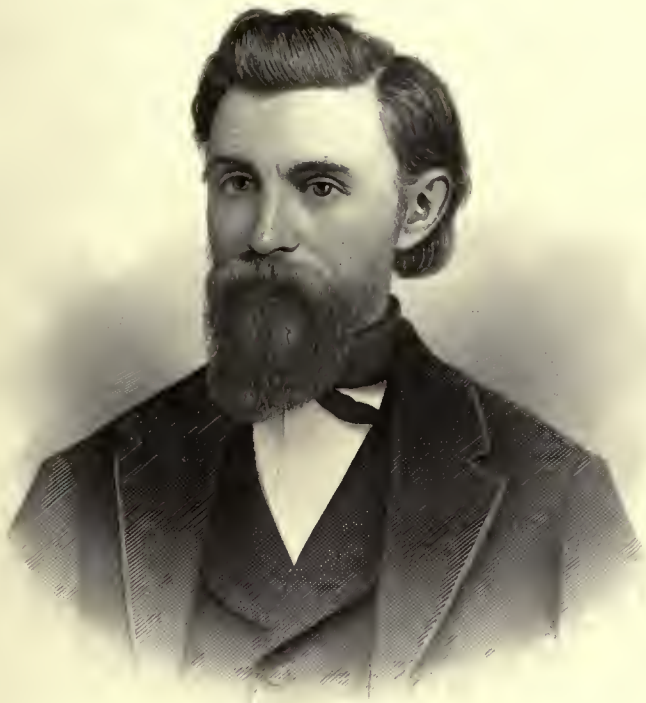
Eighth. That said indictment was found by the grand jury without the testimony of any sworn witness or witnesses, as appears therefrom, there being the names of no witness or witnesses endorsed thereon, as required by law, or if found on the testimony of witnesses their names are not endorsed thereon.

Major Hempstead now stated that his client, on hearing that he had been indicted, had come of his own volition and without any compulsion to obey the mandates of the court. He presented the certificate of Dr. W. F. Anderson, the President's attending physician, to the effect that the defendant was in a feeble condition, being in his seventy-first year, and that confinement would in all probability prove fatal to him. For these and other reasons, some of which had been cited in the case of Mayor Wells when he was admitted to bail, it was asked that a similar order be made in relation to President Young.

U. S. Attorney Bates said that he was aware that in cases equally important to this, parties had been released on bail. He mentioned the case of Aaron Burr, and that of Jefferson Davis, the latter of whom had deluged the country in blood and yet was given bail. The fact that the defendant had come of his own accord, without constraint, acknowledging that it lay with the court to admit him to bail or refuse to do so should be considered; also that he was an aged man, that his health was poor, and that the United States had no proper place in this Territory to keep prisoners as they should be kept. As the representative of the Government Mr. Bates would only ask that this defendant be treated like all others. It was left to the discretion of the court as to whether or not bail should be accepted, but if it were, he would ask that it be fixed at five hundred thousand dollars.

This proposition brought Mr. Fitch to his feet with a protest against the excessive amount. The bail of Jefferson Davis, he said, for the high crime of treason was only placed at one hundred thousand dollars by the Chief Justice of the United States. While the defense would bow to the decision of the court, and were ready to give whatever bail might be demanded, he regarded the amount suggested by the District Attorney as unprecedented in American criminal history, and he could not let the proposition pass without challenge and objection.

Judge McKean then gave his decision. Said he: "The Govern-



Washington F. Anderson



ment of the United States has no jail in this city for holding prisoners who are arrested on process issued from the United States courts. The Marshal is therefore required to exercise the discretion which the law vests in him. Sometimes such prisoners are kept at Camp Douglas, but the military commander at that post is not obliged to receive them. The defendant now at the bar is reputed to be the owner of several houses in this city. If he shall choose to put under the control of the Marshal some suitable building in which to be detained, it will be for the Marshal to decide whether or not he will accept it. It is at the option of the defendant to say whether or not he will make such an offer, and equally at the option of the Marshal to say whether or not he will accept it. In any event, where or however the defendant may be detained, the Marshal will look to it that his every comfort be provided for, remembering that the defendant is an old man. I decline to admit the defendant to bail."

President Young then withdrew in charge of the United States Marshal, followed by an eager multitude who had thronged into the building, and who now pressed forward to catch a glimpse of his face or to grasp his hand in friendly sympathy as he departed. He was permitted by Marshal Patrick to remain in his own home, which was guarded by U. S. deputy marshals. To the credit of the Marshal be it said that notwithstanding the censure heaped upon him by the anti-Mormon press for so doing, he accorded to his aged prisoner every reasonable comfort and courtesy.

The case against Brigham Young and his co-defendants, on the charge of murder, never came to trial. Its postponement till the March term of the District Court, a request denied to the defense, was now granted to the prosecution. Then, before it was reached upon the docket, the decision of the United States Supreme Court in the Englebrecht case was given, overturning and invalidating the proceedings of the Federal courts in Utah for a period of nearly two years, and liberating the prisoners pent up by Judge McKean's persecutive rulings. But the events will be narrated in their order.

On the 9th of January, 1872, the day set for the trial of Brigham Young, the United States Attorney, Mr. Bates, announced to the court that James L. High, Esq., had been appointed Assistant District Attorney for Utah. Mr. High, being present, then took the oath of office. His appointment, it will be observed, left Mr. Baskin, the first person proposed for the place, "out in the cold." This was regarded as another step in the reform policy toward Utah that was gradually being adopted at the seat of Government. Mr. Bates also read the correspondence that had passed between Attorney-General Akerman, Solicitor General Bristow and himself, relative to a lack of funds with which to carry on the pending prosecutions; which correspondence has already been laid before the reader. He stated that he had informed the Attorney-General that it was not at all probable that the Territorial Legislature would provide means for the expenses of the courts, and as Congress had not yet done so, and there were no funds available for the purpose, he now at the suggestion of the Attorney-General asked for a continuance of all criminal business until the second Monday in March. In his hand he held a calendar of over twenty cases, in some of which, he stated, the parties were under arrest, and in others they were not. He asked that all these cases be postponed and expressed the hope that the members of the Legislature, which had just convened, would see the propriety of providing funds in order that their leaders might be vindicated if unjustly accused, and punished if guilty of the high crimes charged against them. Mr. Bates also announced that he had been summoned to Washington to report forthwith to the Attorney-General, in order that that official might be fully advised as to the condition of affairs in Utah.* His assistant, Mr. High, would attend to all business in his absence.

The court, at the conclusion of the District Attorney's statement, ordered all the criminal cases on the calendar and all civil causes

* It was about this time that Hon. Amos T. Akerman, of Georgia, resigned the office of Attorney-General of the United States, and was succeeded by Hon. George H. Williams, of Oregon. It was probably owing to this change that Mr. Bates was summoned to the capital.

that were to be tried before juries, continued for the term. A few days later Mr. Bates set out for Washington.

About a month before his departure, and at least a fortnight prior to President Young's return from the south, there had begun and ended at Salt Lake City the second and last investigation into the murder of Dr. J. King Robinson. This lamentable affair, it will be remembered, occurred on the night of October 22nd, 1866. The details of the inquest held at that time have already been given. After the lapse of five years the matter had again been taken up, the crusaders feeling assured that under the changed conditions that prevailed they had power to secure convictions on this score,—it mattered not of whom, so long as they were Mormons, though men "high in authority" were of course preferred. Their confidence in this direction, in view of what had already occurred, with a man like Judge McKean upon the bench, and men like "Bill" Hickman in the Grand Jury room, though not destined to produce the full fruition of their hopes, can not be said to have been altogether misplaced. Several well known Mormon citizens had accordingly been arrested on bench warrants issued from the Third District Court, based upon affidavits signed by Deputy U. S. Marshal Gilson, and were now in confinement at Camp Douglas, awaiting the issue of the investigation. These men were Alexander Burt and Brigham Y. Hampton, police officers of Salt Lake City; James Toms, a gunsmith and one of the special police, John L. Blythe, a store-keeper, and John Brazier or Brasher. All except Mr. Hampton were arrested on the 13th of December, and he upon the 19th. A man named Morris was also accused, but does not appear to have been apprehended. The conviction of officers Hampton, Burt and Toms seems to have been most desired,—not by Mr. Bates, who conducted the prosecution in a fair and dispassionate manner, but by Judge McKean and his cabal, who evidently hoped to fasten guilt upon the city police and through them trace it to higher authority, civil and ecclesiastical.

The investigation began in chambers before the Chief Justice on Thursday, December 14th, and ended on Saturday, the 23rd.

During the proceedings sessions were held in the Woodmansee Building and in the Liberal Institute. U. S. Attorney Bates and General Maxwell appeared for the people, and Messrs. Hempstead and Fitch for the accused. Numerous witnesses were examined, some of whom had testified at the former inquest, when nothing definite was ascertained as to the identity of the person or persons who committed the crime, and when it was positively declared by Hon. John B. Weller, the Gentile lawyer who led in the investigation, that nothing had been proved against the city police. Nor were the same witnesses now able to testify to anything further. They had heard a shot and a scream, and had seen men running from the scene of the assassination, but those men they had seen and were still unable to identify. There were two witnesses, however, who now professed to know considerable about the murder. They claimed that they had not only seen men running from the spot where the deed was done, but had recognized some of them and were able to name them. One of these witnesses was Charles W. Baker; the other was Thomas Butterwood.

Baker's testimony was to this effect. In company with his partner, A. W. Johnson, who had since been killed at Silver City, Idaho, he had arrived at Salt Lake City about the 18th of October, 1866, on his way to Arizona. They kept their animals at the Boise Stables, Fourth South Street. On the night of the 22nd he and his partner attended the Salt Lake Theater and witnessed a play, the name of which he did not remember, but it was one in which Julia Dean Hayne took part. After the performance was over they walked down the State Road as far as Tuff's Mansion House and there held an argument as to whether or not they should go "up town" and get something to eat before going to bed. They finally decided to take supper, and started for Main [East Temple] Street, along Third South Street, for that purpose. It was a bright, moonlight night. In a few minutes they were upon Main Street and near the spot where the murder was committed. They heard a scream and the firing of a shot, and saw men running in different directions. Two of the men

came toward them. Entering a gate and crouching down behind a fence they caught a glimpse of them as they passed. Another man was also seen by them at close quarters. Baker thought that he knew all three, and next day he identified Messrs. Blythe and Morris as the two who had passed him, and Mr. Toms as the third party. Blythe wore a beard and moustache and was trying to conceal a long knife or sword underneath his coat as he ran. He knew Blythe because he had bought vegetables of him at his store opposite the Revere House, where he had also seen Morris. Toms he had met at his shop, where the witness had had a pistol repaired. After the firing he had seen a body lying on the opposite side of the street, but whether or not it was a man he did not know. He did not go across to see, but went to his lodgings and retired. He left Salt Lake on the 24th or 25th of October, before the inquest began, but instead of going to Arizona, went to Austin, Nevada, and thence to California, Oregon and other places. He returned to Utah in March, 1871. Being asked the question whether he was not in jail at Elko, Nevada, Baker admitted that he was, and added that he was not ashamed to confess it. He was asked why he did not give the information that he now professed to have, at the time of the murder, and answered that it was because he was fearful for his safety.

In rebuttal of this man's statement, the defense proved by the testimony of Messrs. Thomas Williams, John C. Graham and John T. Caine, who were all connected with the Salt Lake Theater in 1866—the first named as treasurer, the second as an actor and the third as stage manager—that no performance was given at that house on October 22nd of the year mentioned. A bound volume of the Theater programs was introduced in evidence of the fact. It was shown that Julia Dean Hayne was not in Utah at the time Baker claimed to have seen her playing at the Salt Lake Theater, but that she had closed an engagement there on the 30th of June, preceding, and had then gone north to Idaho and Montana.* Other dis-

* For notice of Julia Dean Hayne's farewell benefit at the Salt Lake Theater, June 30th, 1866, see Chapter VI. of this volume.

crepancies in Baker's testimony were made apparent during the course of the investigation. One of them was in relation to the picket fence behind which the witness claimed to have crouched when he saw the murder. Baker stated that the fence was about six feet high—which was really the case at the time of this investigation—but the defense proved that at the date of the murder the fence enclosing the Houtz corner—the place in question—was a low one about three feet in height. This fence had subsequently been torn down and the higher one erected.

The story told by Butterwood, the other witness relied upon by the prosecution to prove the identity of Dr. Robinson's murderers, was substantially as follows: He was a miner, and had been a resident of Salt Lake City since 1856. He lived in the Fourteenth Ward, but was unable to tell whether or not his home was there in 1866. On the 22nd of October of that year he was visiting a friend at Cottonwood, ten miles south of the city. Returning in the evening, afoot, he lost his way, and tried to find the Salt Lake Theater in order to guide himself homeward. He had reached Tuft's Mansion House when he saw two men, one taller than the other, and heard one of them say: "D—n it, let's go and get something to eat." This was between eleven and twelve o'clock. The witness walked westward from the Mansion House toward Independence Hall. When he arrived opposite the latter place he saw a man standing near the Beatie corner to whom a man and woman passing said: "Good-night, Brigham Hampton." Continuing westward, the witness reached the middle of the next block when he heard some shooting and a cry of "O God, don't murder me!" Jumping over a pole fence he hid among some currant bushes. Two men came from the east, running rapidly. He did not see their faces, but from the beard of one of them he recognized under a slouched hat a man whom he afterwards identified as Alexander Burt. The other he subsequently identified as Brigham Y. Hampton. He did not see his face or beard, for he had on a broad-brimmed slouched hat. Both men wore overcoats but he recognized

their forms. He did not know their names at the time but made their acquaintance some months later. Butterwood alleged that an attempt had been made by some person to him unknown to bribe him not to testify, but he bombastically protested to the court and to those present that he was not for sale.

In refutation of this story, it was proved by "a cloud of witnesses" that Alexander Burt, on the night of the 22nd of October, was at home playing checkers with several friends, from half past nine p. m. until after twelve o'clock. The murder occurred a little before midnight. It was also shown in regard to Mr. Burt's beard—as it had been in relation to Mr. Blythe's moustache—that he wore none at the time indicated. As for Mr. Hampton, several witnesses stated that on the night of the murder he went home with Mr. Burt from a circus entertainment near the City Hall between nine and ten o'clock—both officers then living in the western part of town—and that Hampton had entered his house first, leaving Burt to pursue his way homeward. It also came out in evidence that Mr. Hampton, in October, 1866, was a partial invalid, suffering from pneumonia, and, according to the statement of his physician, Dr. J. S. Ormsby, "could not have run a block." The oldest inhabitants of the neighborhood where Mr. Butterwood claimed to have crouched behind a pole fence among some currant bushes, were unable to remember that any such fence existed in that vicinity at the time of the murder. They declared that an adobe wall ran along the front of the premises where Butterwood claimed to have concealed himself. And so the defense went on riddling the testimony of this witness.

Among others who testified was Samuel Bringhurst, who stated that his son had found near the scene of, and soon after the shooting, a pistol which was subsequently claimed by a man named Metcalf or Seigel. This incident—the finding and claiming of this pistol—was referred to in a former chapter in connection with the Robinson murder.

The taking of testimony having concluded, the arguments of

counsel began and were listened to with breathless interest. The first speaker was General Maxwell, who declared during the course of a bitter anti-Mormon harangue that "the entire police force of Salt Lake City was on trial." This statement, almost equal in absurdity to that of Chief Justice McKean when he asserted that "a system was on trial in the person of Brigham Young," plainly showed the desire of the prosecution, or that part of it represented by Mr. Maxwell, to fasten the guilt upon the police force, and thence trace it by the same kind of "evidence" as that given by Messrs. Baker and Butterwood, to Mayor Wells and the Mormon Church authorities. Maxwell claimed that the prosecution had made out a probable case against officers Burt and Hampton. As for Mr. Toms, the assistant prosecutor said that he was a man who, being once seen, could not easily be forgotten, and according to the evidence he had been seen on the night of the murder running away from the scene of its commission. Maxwell's address occupied about an hour.

Mr. Fitch followed, speaking for an hour and thirty minutes. He maintained that there was not the least probability that the prisoners at the bar had anything to do with the murder of Dr. Robinson. There was no evidence in the testimony of Thomas Butterwood tending to identify Messrs. Hampton and Burt. The witness did not see their faces but swore to their identity from their forms. He claimed to have heard the murdered man exclaim: "Oh, God, don't murder me!" when he was one and a half blocks (nearly seventy rods) away, while other witnesses, much nearer, heard only a scream and a shot. He also claimed to have heard some one say: "Good-night, Brigham Hampton," as if, forsooth, acquaintances habitually addressed each other in such stilted phrase. Why did Butterwood hide? If he was so frightened how could he recognize men running whose faces he did not see? Commit men on such evidence and every jail would overflow. Butterwood had probably heard it rumored that the police had a hand in the murder, and as he had seen these men in the police force since, he had made up his

mind that they resembled the men who ran past him. As to the testimony of the witness Baker, it was so full of discrepancies as to be utterly unreliable. It was evidently a made up story and would not bear scrutiny. Mr. Fitch called attention to evidence going to show that Baker had written himself a note,—which he had tried to get copied through a confederate,—reading:

C. W. Baker, Salt Lake City, Dec. 21, 1871,

SIR:—Leave this city or remain at your peril. You will be allowed until the first of January next.

YOUR FRIEND.

That confederate, it was shown, was one John Kramer, alias "Dutch John," who had testified that Baker admitted to him that he had "done some hard swearing" in this case, and had said that he had to do it for he was "out of money," and that he was going to "fool them all." Mr. Fitch, in conclusion, maintained that it would be most unjust to allow men to stand committed upon such testimony.

Major Hempstead closed the argument for the defense. He denounced the crime as a most atrocious one. He had been engaged in the original inquest, and he regretted to say that, after the most faithful scrutiny, he, with all others who took part therein, had failed to find a single clue leading to the identification of the guilty parties. He then reviewed the testimony given at the present investigation and showed that while Butterwood might be an honest man, there were serious inconsistencies in his statement, and that none of it really implicated anyone in the commission of the crime. Mr. Baker, he said, was positive of too much; he remembered every thing that occurred and many things that did not occur. Major Hempstead held that there was evidence of fraud in the testimony of this witness.

U. S. Attorney Bates made the closing argument. He admitted that the testimony was not sufficient to convict the defendants, but he thought it ample to justify their detention to await the action of the Grand Jury. Mr. Bates' argument was entirely free from the animus so apparent in the remarks of his assistant, Mr. Maxwell,

and was in the nature of a plea for justice both to the living and the dead.

Judge McKean, in summing up the case, manifested his usual bias. He spoke as if he were engaged on the side of the prosecution. He briefly went through the testimony, palliated the discrepancies of the witnesses Baker and Butterwood, but conceded that the evidence was stronger against Messrs. Hampton, Blythe and Toms than against Mr. Burt. It was his judgment that Alexander Burt should be discharged, and the others committed to await the action of the Grand Jury.

An order to that effect was accordingly made, bail being refused. John Brasher, who had been arrested with the others and confined at Camp Douglas, was released with Mr. Burt, there being no evidence to implicate him.

It was a foregone conclusion what the Grand Jury would do. Immediately on assembling they found indictments against Messrs. Hampton, Blythe and Toms, for the murder of Dr. Robinson; and not only that, but they actually indicted for the same crime Alexander Burt, who had proved an *alibi* at the investigation, and had been discharged by order of Chief Justice McKean. Mr. Burt was re-arrested on the 20th of January, and forthwith rejoined his imprisoned co-defendants.

Prior to that, however, another act in this strange drama—so tragical in some of its phases, so farcical in others—had been played. The witness, Charles W. Baker, twelve days after the close of the investigation at which he testified, went before a notary public and made the following affidavit:

TERRITORY OF UTAH, }
SALT LAKE COUNTY. } ss.

Be it remembered that on this 3rd day of January, 1872, personally appeared Charles W. Baker, who was by me sworn in due form of law, and who, on his oath, did say that he is the identical Charles W. Baker who was a witness in an examination before the honorable James B. McKean, Chief Judge of the Supreme Court of the Territory of Utah, commencing on the 14th day of December and terminating on the 23rd day of December, 1871, at Salt Lake City; wherein John L. Blythe, James Toms, Alexander Burt and Brigham Y. Hampton were charged with the murder of J. King Robinson, at Salt Lake City, in the



John L. Blythe

county of Salt Lake and Territory of Utah on the 22nd day of October, 1866. He further says that the testimony which he then on said examination gave was wholly untrue and false. He further says he was hired to give said testimony by S. Gilson. That it was agreed between him and the said S. Gilson and others :

That he was to be paid the sum of five hundred dollars, no matter what might be the event of the proceedings and one thousand dollars for each person that was or might be convicted.

That during the time he was engaged in said testimony and detainment, his board was paid by said Gilson and others, at the Revere House in said city.

He therefore voluntarily now makes this statement upon his oath.

He further says he had a plat of the grounds and of the street in the city of Salt Lake, near to the place where the murder was committed, furnished him by S. Gilson, which plat, before he gave evidence, was carefully studied, so that he might understand it.*

He further says that since he so gave his testimony he has carefully reflected on the enormity of the crime he has committed and is aiding and carrying out, and he has concluded to make amends, so far as it is now in his power.

He further says that, on or about the 16th day of December, 1871, he had a conversation with Thomas Butterwood, who then informed this affiant that he was hired to give his testimony, in the above named case, and that his testimony was not true.

[Signed],

C. W. BAKER.

Subscribed and sworn to before me this third day of January, A. D. 1872.

JOHN T. CAINE, Notary Public.

Hon. Thomas Fitch gave as a probable reason why Baker made the foregoing affidavit that he had failed to receive his promised reward. If this was the case the wrong done him was evidently soon righted, for a few days later he turned another moral summersault, and reiterated his former statement. Says Mr. Fitch, in his speech before the Constitutional Convention, from which we have already quoted: "After making this affidavit somebody persuaded Baker to go before the Grand Jury and repeat the false statements he had made before the examining magistrate.† While Baker was giving his testi-

* Later, Deputy Marshal Gilson was arrested upon a complaint sworn to by one John Thomas, charging him with using threats to induce the complainant to sign an affidavit retracting certain statements that he had made as a witness in the Baker-Robinson affair. Gilson was examined before Justice Samuel W. Richards early in May, 1872, and held in bonds to await the action of the Grand Jury.

† Soon after Baker's confession of perjury, President Young withdrew his standing offer of five hundred dollars for the arrest and conviction of the murderers of Dr. Robinson, it being evident that the various rewards offered for that purpose, aggregating nearly ten thousand dollars, constituted an inducement to unprincipled men to perjure themselves by engaging in schemes for convicting innocent persons.

mony the Grand Jury had in their possession the affidavit I have just read, and yet, will it be believed? they refused to consider the affidavit; they refused, although requested, to send for the three witnesses by whom the fact of Baker's voluntary signing and swearing to it could have been proved; they refused to even question Baker about it, or to ask him to explain it, while upon his testimony alone they indicted Blythe and Toms. There was no evidence so base or worthless but was sufficient to indict a Mormon upon; there was no evidence sufficiently damning to indict a man who would swear against Mormons. From the closed doors of this grand inquest the counsel for Blythe and Toms turned to Judge McKean. Upon a proper legal affidavit they asked him to have Baker brought before him for examination upon a charge of perjury; he refused to issue a warrant or make any examination, on the ground that the Grand Jury had had the subject under consideration. Baker was then arrested and taken before a Mormon justice."

This Justice was Hon. Jeter Clinton, and it was on the morning of the 24th of January that the proceedings before him in the Baker perjury case began. The affidavit upon which the defendant was arrested was signed by Leverett Bean. Judge Hoge appeared for the people, and General Maxwell for the accused. The affidavit was read to the prisoner, after which he was given until 2 p. m. to plead. A request by Mr. Maxwell that his client be admitted to bail was granted, the amount being fixed at one thousand dollars. Maxwell offered as security a check on Wells, Fargo and Co's Bank, but it being an informal proceeding, the check was refused and the prisoner detained in custody. At the hour designated the examination was resumed, Assistant District Attorney High now being associated with Judge Hoge in the prosecution. A motion by General Maxwell for the discharge of the prisoner, on the ground that the affidavit on which he had been arrested failed to state that he had testified falsely on any material point, was opposed by Mr. High, who read in refutation of Maxwell's statement certain portions of the affidavit, which closed as follows: "And particularly was it untrue and false

that he, the said Charles W. Baker, was at the Theatre on the night of the 22nd of October, 1866; that he went from the Theatre down the street toward the Mansion House about eleven o'clock of the evening of the 22nd of October, 1866, and stopped at the corner of the street nearly opposite the Mansion House, and that he and another man went toward Main Street of said city, and that he and another man saw what he called a drunken row, and turned into a gate and there saw two men running east whom he recognized as the said Blythe and Toms. * * * This affiant further says that he firmly believes that the said Charles W. Baker, by reason of the testimony, so as aforesaid by him given, did knowingly, wilfully and corruptly commit the crime of perjury."

The motion to discharge the prisoner was overruled. The counsel for the defendant then waived examination,—“thereby admitting,” says Mr. Fitch, “that there was probable cause to believe Baker guilty of perjury,”—and requested the court to fix the amount of bail. Mr. High suggested, in view of the gravity of the charge, that it be placed at five thousand dollars. Judge Clinton remarked that he did not think exorbitant bail should be required in any case, and he set the amount at three thousand dollars. General Maxwell stated that the defendant was not prepared to give bail and asked that a mittimus be issued and the prisoner turned over to the custody of the U. S. Marshal to await the action of the Grand Jury, which had adjourned until February 20th. Baker was accordingly remanded. Evidently this was deemed by his attorney the surest way to prevent him from making any more affidavits that might tend to establish the innocence of the Mormon prisoners. Not long afterwards Baker was released on a writ of *habeas corpus* issued by Judge Strickland—Judge McKean then being absent from the Territory—and temporarily disappeared from view. Returning to Salt Lake City he next assumed the role of a common thief, and having been convicted of grand larceny, was sentenced to two years' imprisonment.*

* Baker's trial took place in the Probate Court in December, 1872. On May 15th, 1873, he was released by Judge Boreman on a writ of *habeas corpus*, on the ground that the Territorial statute giving criminal jurisdiction to Probate Courts was invalid.

The men who had been cast into prison upon the uncorroborated testimony of this self-confessed perjurer, were held in custody by the United States Marshal from the close of the investigation in January, 1872, till the latter part of April, several days after the Englebrecht decision was given. At first Messrs. Hampton, Burt, Blythe and Toms were confined in the City Jail, in company with Hosea Stout and William H. Kimball, a special apartment having been fitted up for them in the building occupied by the Salt Lake Fire Department. On the 22nd of March, however, they were removed to Camp Douglas, the transfer, it was understood, being due to the numerous visits paid the captives by their friends, who sought to cheer their imprisonment; a proceeding upon which anti-Mormon malice could not look with any degree of allowance.

Meantime District Attorney Bates, who on the 13th of January had left Salt Lake City for Washington, had arrived at his destination and made full reports of his professional course in Utah to Attorney-General Williams and President Grant. It seems that just prior to Mr. Bates' departure for the East he had been solicited in the interest of President Young and his imprisoned brethren to use his influence to have them admitted to bail. Thereupon he had telegraphed to the Attorney-General as follows: "Cases against Brigham Young continued until March. Bills for keeping prisoners accumulating. Defendants ask to be released on good bail. Shall I consent?" To which General Williams had replied: "Admit defendants to reasonable bail." This was on January 11th. Either Mr. Bates did not have an opportunity to move in the matter before leaving, two days later, for Washington, or he was restrained by the consideration that Judge McKean had already declined to admit President Young and the other defendants to bail. At any rate nothing appears to have been done by him in the direction indicated. A few days after his arrival at the capital, however, his assistant, Mr. High, received from him the following telegram:

WASHINGTON, D. C., January 26th, 1872.

James L. High, Deputy United States Attorney:

The Attorney-General directs that you move the court to bail in such sums as will secure the attendance of all criminals, to save expense.

GEORGE C. BATES,

U. S. District Attorney.

Pursuant to this instruction Mr. High, on the 31st of January, made a motion in the Third District Court for the admission to bail of prisoners in all criminal cases then on the calendar. The cases named by him were as follows:

The People *vs.* Stephen Morrison and James Lewis, indicted for larceny;

The People *vs.* Andrew Stephens—assault with intent to maim;

The People *vs.* James Wales—murder;

The People *vs.* James Harrington—murder;

The People *vs.* Brigham Young, Sr., Daniel H. Wells, Hosea Stout and William A. Hickman—murder;

The People *vs.* Brigham Young, Sr., William A. Hickman, Morris Meacham and William H. Kimball—murder;

The People *vs.* Alexander Burt, James Toms, John L. Blythe and B. Y. Hampton—murder;

The People *vs.* John Beegan—murder;

The People *vs.* John Allan—murder;

The People *vs.* — Jones—murder.

Judge McKean refused to grant the motion, stating that "it would be a most pernicious precedent." "Besides," said he, "there are reasons which cannot be made public why these prisoners should not be admitted to bail—reasons which District Attorney Bates cannot have communicated to Attorney-General Williams, and to which Mr. Bates seems quite indifferent. Indeed he is known by the court to have made, in other particulars, serious misstatements in regard to affairs in Utah." Not long afterwards Judge McKean supplemented this verbal attack upon Mr. Bates by a personal visit to Washington, where he strove, in conjunction with Messrs. R. N. Baskin, A. S. Gould and others, not only to counteract

the influence which he believed Mr. Bates was exercising against him, but to secure that gentleman's removal from office. Mr. Gould was the Salt Lake agent of the Associated Press, and made it his especial business to "work the wires" to the hoped for detriment of the District Attorney. The successor to the latter desired by Judge McKean was Mr. Baskin. Thus was opened between the Chief Justice and U. S. Attorney Bates a breach that never closed.

On the 11th of March Assistant District Attorney High obtained an order of court that witnesses then present for the trial of President Young should give their recognizances to appear when called upon. This was all that was done in the case, though the trial had been set for that day. The reason of this postponement was the absence of Chief Justice McKean and District Attorney Bates, the latter not having yet returned, and the former having set out some days previously for the national capital, leaving Judge Strickland to act temporarily in his place.

Judge McKean's object in visiting Washington has already been stated; also, in part at least, the purpose of the District Attorney. That the latter, at the time of his departure from Salt Lake, had an anti-McKean motive in his breast is very probable. Like Mr. Hempstead—who had resigned the office of District Attorney rather than prosecute longer under Judge McKean's illegal rulings—Mr. Bates had become disgusted with the doings of the Utah crusaders and the confusion in which they had involved the judicial affairs of the Territory. He had resolved to make a plain and thorough statement to the Attorney-General and the President, in order that something might be done to end the legal embroglio. Whether or not he advised the removal of Judge McKean, does not appear. It is a fact, however, that he was accused by the latter's supporters of so doing, and it was this that took the Chief Justice to Washington. McKean was a great favorite with Dr. Newman, the Chaplain of the Senate, by whom his course in Utah was believed to be largely inspired, and it is well known that Newman's influence over President Grant was very great. Upon them, therefore, as

against Attorney-General Williams and Solicitor-General Bristow, who favored Bates, McKean relied in the diplomatic fight that now took place between himself and Utah's District Attorney. In this contest the Mormons had no share, though they naturally sympathized with Mr. Bates, whose course was also approved by the large majority of the non-Mormons of Utah. Judge McKean's following was "the ring" and its adherents, who, though a small minority among the Gentiles, made up for lack of numbers in activity and noise. The following telegrams from Washington to the New York *Herald* will give some idea of the tactics employed by the Bates and McKean parties at the capital:

February 28th.

The President today received the memorial of the Gentile citizens of Utah, endorsing the course of District Attorney Bates, of that Territory, as being calculated to advance the best interests of the United States, and the due course of justice, without immediately jeopardizing the peace and prosperity of Utah, and denouncing the efforts being made against him. Nearly fifteen hundred signatures are appended to the memorial. Another, endorsing the course of Judge McKean and signed by three hundred Gentiles was also received. Both memorials were referred to the Attorney-General, who will tomorrow hear the verbal explanations of Judge McKean.

February 29th.

Mr. A. S. Gould, of Utah, accompanied by R. N. Baskin, formerly United States District Attorney in that Territory, called at the White House today to present the memorial of three hundred Gentile citizens of Utah, endorsing the course of Judge McKean and expressing the signers' high opinion of him as a man and a judicial officer. Mr. Gould was cordially received by the President, who assented to the terms of the memorial by remarking that the loyal people could have no higher opinion of Judge McKean than himself. After these formalities a rather pleasant conversation followed on affairs in Utah. The President expressing anxiety lest mining interests should suffer as a consequence of the troubles in the Territory, he was assured that there was no apprehension of a conflict damaging to any material interests, and no disposition on the part of the Gentiles toward Mormon persecution. The movement in Utah was aimed, they said, against the theocratic despotism established by Brigham Young and his Apostles. Judge McKean will meet the President and Cabinet tomorrow. The Gentile memorial sustaining District Attorney Bates, as against Judge McKean, has two thousand signatures attached to it.

How reliable the representation to the President that the material interests of Utah would not suffer by reason of the policy

pursued by Judge McKean and his official satellites, is partly indicated by the following dispatch which appeared a few days prior to the publication of the others, in the columns of the *Cincinnati Times* :

WASHINGTON, 15th.

The legal complications in Utah are inflicting serious injury upon the mercantile interests of that Territory. A representative of a large mining corporation, after having spent \$250,000 in litigation in Utah Courts, telegraphed to Salt Lake yesterday to discontinue all suits. This action was taken by advice of the most eminent legal practitioners before the Supreme Court of the United States, to the effect that under the mixed jurisdiction of the Territory and the United States, the service of process was unlawfully made by the Marshal, and all judgments by the juries as drawn are invalid.

The closing sentence of this telegram was a prediction of the nature of the Englebrecht decision, which now hung, like the fabled sword of Damocles, above the devoted head of Utah's Chief Justice.

A Washington correspondent of the *Chicago Post*, under date of January 29th, in reporting to that journal the substance of an interview with District Attorney Bates, threw additional light upon the views of that official and upon affairs at the capital concerning Utah. A few paragraphs of the interview are here inserted :

I met on Thursday your former townsman, George C. Bates, now United States District Attorney for the Territory of Utah. He is here by the order of the Attorney-General, to attempt to extricate the United States government from the very serious legal difficulties into which it has been brought, as it would seem, by inconsiderate action, at the instigation perhaps of over-zealous and ignorant advisers.

* * * * *

Upon assuming the proper functions of his office, Mr. Bates found that the former law officers of the Government had wrought almost inextricable and inexplicable confusion in the law matters of the Territory and the Government.

* * * * *

Mr. Bates upon arriving there found that there was not a single cause pending in the courts, under the act of Congress of 1862, above cited, prohibiting polygamy, or in which the United States was a party, or in which the acts of Congress, as such, were involved. He also found that the Territorial Supreme Court had decided that in all criminal cases, from which there was no appeal, it was a United States Court; assuming thus, in an extra-judicial and unauthorized manner, a chameleon-like jurisdiction. This Territorial court also claimed that all its Grand and Petit jurors must be and had been, drawn as a United States jury under the law of Congress, although the court itself was not a United States court, and had no authority to look to other laws than the statutes of the Territory

by which it was created, and the general common law of the land. The court had assigned multifarious and most peculiar duties to the United States District Attorney. Mr. Bates discovered that the judges had determined it to be his duty to prosecute all criminal causes pending in every district of the Territory, although cases of purely local character, in which the United States had no concern; that he must prosecute Brigham Young for lascivious cohabitation in the United States Court, as well as a common strumpet for breach of the peace in the saw-dust of a Territorial Police Court.

* * * * *

He was to prosecute all sorts of people, for all manner of infractions of purely Territorial laws, the offenses in question being defined and punishable only by Utah statutes. He was to do all this for the United States, and in addition, to provide his own jail and penitentiary, since the United States had none. The Mormon Territorial Legislature, acting in apparent harmony with the judicial decisions of the Federal officers, had determined that if the United States government was resolved to conduct the prosecution of the Police Courts of the Territory, it might also undertake to pay the expenses of the judicial procedure. Consequently the Territorial Legislature refused to make any appropriations of money for the Territorial courts, which had assumed to be exclusively Federal courts. The result was and is, that the United States Marshal has incurred an expense of some eighteen thousand dollars for the ordinary expenses of the courts and the care of prisoners, and that the United States is utterly without funds to continue the existing prosecutions against the leading Mormons, and this, too, while the Mormon leaders avail themselves of the best legal counsel the country affords, regardless of expense. The indictments themselves run as follows: "The people of the United States for the Territory of Utah," and end, "against the statutes of the Territory of Utah, and the peace and dignity thereof," a legal process which, upon its very face, is merely a procedure of a Territorial court, if ordered to be conducted exclusively by Federal officers, in conflict with all the precedents of the Territories, and as it would appear, in violation both of the organic act of the Territory and of the Constitution of the United States. The Grand Jury of this complex court has found all the indictments now under prosecution. The question of the legality and validity of its organization is soon to be tested in the United States Supreme Court, and, I am informed, on the best authority, that within a very few days the Supreme tribunal of the nation will decide that this jury is utterly invalid and unlawful, and that all its pretended acts are simply personal trespasses, without shadow of authority or effect in law.

* * * * *

One peculiar and suspicious circumstance connected with these prosecutions is the fact that under the law, as interpreted, the United States Marshal is empowered to serve every writ for every petty offense, under Territorial statutes as well as United States laws, throughout the entire Territory, which will result, if he ever gets his fees, in giving him an annual income equal to four times the salary of the President of the United States.

Mr. Bates, in general, speaks very kindly of the Federal officers of the Territory, notwithstanding the fact that this peculiarly constituted Grand Jury has, since his departure for Washington, solely at direct order of the Attorney-General, presented him "for endeavoring to obstruct the due administration of justice." Mr. Bates thinks that most of

the officers are men of honest intentions and clean records, but declares that they have been lamentably deficient in legal knowledge. Of Judge McKean, Mr. Bates says that he believes him to be a very pure and honest man. From other sources than Mr. Bates, I learn that the chief trouble with Judge McKean is, that he has a "mission," and that he considers it his judicial duty to advocate the claims of Methodism, and to batter down the walls of the harems of the Utah Turks, rather than impartially to interpret the laws of the Territory as he finds them. Judge McKean was at one time a Methodist preacher, and he seems to be unable to get out of his clerical harness, or to separate old-time denominational enthusiasm from his judicial duties. He is, moreover, considered to be the particular adjutant of the Methodist Chaplain of the Senate, the Rev. Dr. Newman—now known as the "Ecclesiastical Cyclone!"

* * * * *

This gentleman (Dr. Newman) sometime since, while traveling in Utah, entered into a public discussion in Salt Lake with Orson Pratt, upon the subject of Mormonism, and they do say that he did not well hold his own. Since that time Mr. Newman has been very active in assisting Judge McKean in fighting the good battle of the faith for the destruction of polygamy in Utah, and between them the desired result is a long way off.

Another peculiar feature in this legal jumble was the assignment, by Judge McKean, of Baskin to be U. S. Attorney *ad interim*. A U. S. Attorney *ad interim* was probably never before heard of in the history of the Government. A U. S. Attorney can only be appointed by the President and confirmed by the Senate. It is not in the power of any judge to appoint a person to that position *ad interim*. Yet this man Baskin, who has himself a somewhat unenviable record, did act for a long time as U. S. Attorney *ad interim*, and it was under his efforts that the original indictments were framed.

Mr. Bates, notwithstanding the attacks upon him, in every step that he has taken has had the entire approval of the law officers of the Government. He has official records which show that his action has been approved in every instance, both by the Attorney-General and by Solicitor-General Bristow, who is one of the most gifted legal men that has ever occupied that position. The agent of the Associated Press at Salt Lake, who is eager to attack the District Attorney, Mr. Bates believes is acting in behalf of some material interests without regard to the directions of his employers."

The contest between the two non-Mormon factions, both of which had influential representatives at the capital, continued. Mr. Bates, though President Grant had given him the cold shoulder, and even intimated, it is said, that his resignation would be acceptable, was strongly entrenched, as has been shown, in the confidence of Attorney-General Williams and Solicitor-General Bristow. He evinced, therefore, no great eagerness to gratify the Executive by handing in his resignation. His labors at Washington were about equally divided between defending himself against the onslaughts of

the McKean party—who were determined to effect his removal and secure the appointment of Mr. Baskin—and appealing to Congress for an appropriation to aid in prosecuting the cases then pending in the Federal courts of Utah. Both Mr. Bates and Judge McKean went before the Judiciary Committee of the House of Representatives and gave each his version of the local question during their stay at Washington. It was understood that the President would have taken summary action and removed Mr. Bates from office, but that he was waiting for the decision of the Supreme Court in the Englebrecht case, before putting himself upon record in that matter. Besides Judge McKean, Mr. Bates, Mr. Baskin and other citizens of Salt Lake now at the seat of Government, all anxiously awaiting the outcome, were Hons. George Q. Cannon, Thomas Fitch and Frank Fuller, the purpose of whose presence in Washington at this time will be explained in the following chapter.

It was on Monday, the 15th of April, 1872, that the Supreme Court of the United States rendered the famous Englebrecht decision, by far the most important ruling ever given by that august tribunal in relation to the general affairs of the Territories. The interests involved have already been dwelt upon. It only remains, therefore, to note the salient points of the decision, and record the immediate effects thereof. It was the unanimous expression of the Supreme Bench, and was voiced by the Chief Justice, Hon. Salmon P. Chase. We quote from the record:

SUPREME COURT OF THE UNITED STATES.

No. 379—DECEMBER TERM, 1871.

Jeter Clinton, J. D. T. McAllister, A. Burt, Brigham Y. Hampton, C. Ringwood, W. G. Phillips, William Hyde, Charles Livingston, Charles Crow, J. Reading, J. Toms, A. Burt, F. Curtis, D. W. Leaker, J. McRae, J. W. Sharp, P. McKennon, Thomas Burchell and R. Smith, plaintiffs in error, *vs.* Paul Englebrecht, Christian Rehmke and Frederick Lutz. In error to the Supreme Court of the Territory of Utah.

The principal question for consideration is raised by the challenge of the defendants to the array of the Jury in the Third District Court of the Territory of Utah.

The suit was a civil action for the recovery of a penalty for the destruction of certain property of the plaintiffs by the defendants. The plaintiffs were retail liquor dealers in

the city of Salt Lake, and had refused to take out a license, as required by an ordinance of the city. The defendants, acting under the same ordinance, thereupon proceeded to the store of the plaintiffs and destroyed their liquors to the value, as alleged, of more than twenty-two thousand dollars.

The statute gave an action against any person who should wilfully and maliciously injure or destroy the goods of another for a sum equal to three times the value of the property injured or destroyed. Under this statute the plaintiffs claimed this three-fold value.

The act of the Territorial Legislature, passed in 1859, and in force when the jury in this cause was summoned, required that the County Court in each county should make out from the assessment rolls a list of fifty men qualified to serve as jurors; and that thirty days before the session of the District Court, the clerk of that court should issue a writ to the Territorial Marshal, or any of his deputies, requiring him to summon twenty-four eligible men to serve as petit jurors.

These men were to be taken by lot in the mode pointed out by the statute from the list previously made by the clerks of the county courts, and their names were to be returned by the Marshal to the clerk of the District Court. Provision was further made for the drawing of the trial panel from this final list, and for its completion by a new drawing of summons in case of non-attendance or excuse from service, upon challenge or for other reason.

For the trial of the cause the record shows that the court originally directed a venire to be issued in conformity with this law, and that a venire was issued accordingly, but not served or returned. The record also shows that under an order subsequently made an open venire was issued to the Federal Marshal, which was served and returned with a panel of eighteen petit jurors annexed. These jurors were summoned from the body of the county at the discretion of the Marshal.

Twelve jurors of this panel were placed in the jury box, and the defendants challenged the array on the ground that the jurors had not been selected or summoned in conformity with the laws of the Territory and with the original order of the court. The challenge was overruled. Exception was taken and the cause proceeded. Both parties challenged for cause. Each of the defendants claimed six peremptory challenges. This claim was also overruled and exception was taken. Other exceptions were also taken in the progress of the cause. Under the charge of the court a verdict was rendered for the plaintiffs, under which judgment was rendered for fifty-nine thousand and sixty-three dollars and twenty-five cents (\$59,063.25) and on appeal was affirmed by the Supreme Court of the Territory. A writ of error to that court brings the cause here.

It is plain that the jury was not selected or summoned in pursuance of the statute of the Territory. That statute was, on the contrary, wholly and purposely disregarded, and the controlling question raised by the challenge to the array is whether the law of the Territorial Legislature, prescribing the mode of obtaining panels of grand and petit jurors, is obligatory upon the district courts of the Territory.

* * * * *

The theory upon which the various governments for portions of the Territory of the United States have been organized has ever been that of leaving to the inhabitants all the

powers of self-government consistent with the supremacy and supervision of national authority, and with certain fundamental principles established by Congress. As early as 1784 an ordinance was adopted by the Congress of the Confederation providing for the division of all the territory ceded or to be ceded into States with boundaries ascertained by the ordinance. These States were severally authorized to adopt for their temporary government the constitution and laws of any one of the States, and provision was made for their ultimate admission by delegates into the Congress of the United States. We thus find the first plan for the establishment of governments in the Territories authorized the adoption of State governments from the start, and committed all matters of internal legislation to the discretion of the inhabitants, unrestricted otherwise than by the State constitution originally adopted by them.

This ordinance, applying to all territories ceded or to be ceded, was superseded three years later by the ordinance of 1787, restricted in its application to the territory northwest of the river Ohio—the only territory which had been actually ceded to the United States.

It provided for the appointment of the Governor and three Judges of the court, who were authorized to adopt, for the temporary government of the district, such laws of the original states as might be adapted to its circumstances. But, as soon as the number of adult male inhabitants should amount to five thousand, they were authorized to elect representatives to a House of Representatives, who were required to nominate ten persons from whom Congress should elect five to constitute a Legislative Council; and the House and Council thus selected and appointed were thenceforth to constitute the Legislature of the Territory, which was authorized to elect a Delegate to Congress, with the right of debating but not of voting. This Legislature, subject to the negative of the Governor and certain fundamental principles and provisions embodied in articles of compact, was clothed with the full power of legislation for the Territory.

* * * * *

In all the Territories full power was given to the Legislature over all ordinary subjects of legislation. The terms in which it was granted were various, but the import was the same in all.

* * * * *

The language of the section conferring the legislative authority in each of these acts [the organic acts of Wisconsin, Kansas, Nebraska and Utah Territories] is this:

“The legislative power of said Territory shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States, and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil. No tax shall be imposed upon the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents.”

As there is no provision relating to the selection of jurors in the Constitution, or the organic act, it cannot be said that any legislation upon this subject is consistent with either. The method of procuring jurors for the trial cases is therefore a rightful subject of legislation, and the whole matter of selecting, empaneling and summoning jurors is left to the Territorial Legislature.

* * * * *

It is insisted, however, that the jury law of Utah is defective in two material particu-

lars: First—That it requires the jury lists to be selected by the county court, upon which the organic law did not permit authority for that purpose to be conferred. Second—That it requires the jurors to be summoned by the Territorial Marshal, who was elected by the Legislature, and not appointed by the Governor. We do not perceive how these facts, if truly alleged, would make the mode actually adopted for summoning the jury in this case legal. But we will examine the objections.

In the first place we observe that the law has received the implied sanction of Congress. It was adopted in 1859. It has been upon the statute book for more than twelve years. It must have been transmitted to Congress soon after it was enacted, for it was the duty of the Secretary of the Territory to transmit to that body copies of all laws on or before the first of the next December in each year. The simple disapproval by Congress at any time would have annulled it. It is no unreasonable inference, therefore, that it was approved by that body.

In the next place we are of opinion that the making of the jury lists by the county courts was not a judicial act. Conceding that it was not in the power of the Territorial Legislature to confer judicial authority upon any other courts than those authorized by the organic law, and that it was not within its competency to organize county courts for the administration of justice, we cannot doubt the right of the Territorial Legislature to associate selectmen with the judge of probate, and to call the body thus organized a county court, and to require it to make lists of persons qualified to serve as jurors. In making the selection, its members acted as a board, and not as a judicial body.

Nor do we think the other objection sound, viz.: That the required participation of the Territorial Marshal in summoning jurors invalidated his acts, because he was elected by the Legislature, and not appointed by the Governor. He acted as Territorial Marshal under color of authority, and if he was not legally such, his acts can not be questioned indirectly.

But, we repeat, that the alleged defects of the Utah jury law are not here in question. What we are to pass upon is the legality of the mode actually adopted for empanelling the jury in this case. If the court had no authority to adopt that mode, the challenge to the array was well taken and should have been allowed.

Acting upon the theory that the Supreme and District Courts of the Territory were courts of the United States, and that they were governed in the selection of jurors by the acts of Congress, the district court summoned the jury in this case by an open venire. We need not pause to inquire whether this mode was in pursuance of any act of Congress, for if such act was not intended to regulate the procuring of jurors in the Territory it has no application to the case before us. We are of opinion that the court erred both in its theory and in its action.

The judges of the Supreme Court of the Territory are appointed by the President under the act of Congress, but this does not make the courts they are authorized to hold courts of the United States. This was decided long ago in the American Insurance Company *vs.* Canter (1 Peters, 546), and in the later case of Benner *vs.* Porter (9 How., 235). There is nothing in the Constitution which would prevent Congress from conferring the jurisdiction which they exercise, if the judges were elected by the people of the Territory and commissioned by the Governor.

* * * * *

There is no Supreme Court of the United States, nor is there any District Court of the United States, in the sense of the Constitution, in the Territory of Utah. The judges are not appointed for the same terms, nor is the jurisdiction which they exercise part of the judicial power conferred by the Constitution or the general government. The courts are the legislative courts of the Territory, created in virtue of the clause which authorizes Congress to make all needful rules and regulations respecting the Territories belonging to the United States. (*American Insurance Company vs. Canter*, 1 Peters, 545.)

* * * * *

The Organic Act authorized the appointment of an Attorney and a Marshal for the Territory, who may properly enough be called the Attorney and Marshal of the United States for the Territory, for their duties in the courts have exclusive relation to cases arising under the laws and Constitution of the United States.

The process for summoning jurors to attend in such cases may be a process for exercising the jurisdiction of the Territorial courts when acting in such cases, as circuit and district courts of the United States; but the making up of the lists and all matters connected with the designation of jurors are subject to the regulation of Territorial law. And this is especially true in cases arising, not under any act of Congress, but exclusively, like the case in the record, under the laws of the Territory.

* * * * *

Upon the whole we are of the opinion that the jury in this case was not selected and summoned in conformity with law, and that the challenge to the array should have been allowed. This opinion makes it unnecessary to consider the other questions in the case.

The judgment of the Supreme Court of the Territory of Utah must be reversed.

Upon the joy that filled the hearts of the citizens of Utah generally when it became known that the court of last resort had reversed Judge McKean's ruling relative to the manner of drawing and empaneling jurors, thereby invalidating nearly all that the crusaders had done during a twenty months' misuse of power, we need not dwell. Neither do we care to portray the deep chagrin and disappointment of the scheming "ring" and its small but active following over the disastrous failure of their unfair and iniquitous efforts to further persecute and enslave their fellow citizens. Suffice it to say that, excepting such as were identified with or had given their allegiance to the conspiring cabal, whose evil and reckless course had received such a sudden check, the Gentiles, scarcely less than the Mormons, were pleased with what had taken place. Judge McKean, who had sat in the Supreme Court and heard the opinion as it fell from the lips of Chief Justice Chase, was almost in despair;

and well he might be, for the decision was the death-knell to his ambitious hopes of future preferment, based upon his anti-Mormon career, and half dug already was the official grave into which, a few years later, he ignominiously descended. Nevertheless he tried to bear up bravely, and made no secret of the fact that he strongly dissented from the unanimous disapproval of his official course expressed by the highest tribunal of the land. Even as the obstinate juryman who complained that his eleven confreres were "stubborn" for not seeing eye to eye with him, Judge McKean insisted that the Supreme Court's decision was "bad in law," and solaced himself with the reflection that he was none the less right, though practically the world was against him. He proved, like Goldsmith's pedagogue, that "e'en though vanquished he could argue still."

Among the dispatches that flew over the wires from Washington to the Utah capital, just after the rendering of the decision, were the following:

WASHINGTON, D. C., April 15th, 1872.

To Manager W. U. Telegraph Office, Salt Lake :

The judgment of the Supreme Court of Utah in the case of Englebrecht vs Clinton, Mormon test case, was reversed by the Supreme Court of the United States today. Jury unlawfully drawn; summonses invalid; proceedings ordered dismissed. Decision unanimous. All indictments quashed.

WHITNEY, Manager,
Washington.

WASHINGTON, D. C., April 15th, 1872.

To Daniel H. Wells, Mayor :

Chase delivered the unanimous opinion in the Englebrecht case. The opinion says the laws of empaneling juries are a rightful subject of legislation. The Territorial jury law must be followed even when trying offenders against the laws of the United States. There is no Supreme or District Court of the United States in Utah, as defined by McKean. The Territorial Supreme Court erred in its judgment. The judgment is reversed. No dissent.

THOMAS FITCH.

WASHINGTON, D. C., April 15th.

To James L. High, Dep. U. S. Atty :

Court unanimously reversed judgment vs. Clinton. Decide also that juries must be drawn under legal statute. U. S. Marshal and District Attorney perform duties as in States.

GEO. C. BATES.

U. S. District Attorney.

WASHINGTON, 15th.—The Supreme Court today rendered a unanimous decision in the Mormon case, Clinton against Englebrecht, reversing the judgment of the Supreme Court of Utah on the ground that the jury which tried the case was not selected conformatory to law; that the summons was invalid; and it follows that the indictments against Mormons for lewd and lascivious cohabitation are illegal, and all proceedings had against them must fall to the ground. The decision sustains the position taken by the Utah District Attorney Bates.

WASHINGTON, 17th.—U. S. District Attorney Bates, of Utah, yesterday directed James L. High, his deputy, to apply to Justice Hawley forthwith for an order for the discharge of all the defendants held by the U. S. Marshal under the void indictments found by the late U. S. Grand Jury, the Supreme Court having decided that the Grand Jury was illegally drawn by that officer, he having no legal authority. All their arrests have been illegal, and as they are now held in violation of law, their further detention would subject the Marshal to the charge of trespass."

A few extracts from leading newspapers of that period, anent the Englebrecht decision, are here presented. Under the heading, "McKean's Muddle Ended," the *Chicago Post* gave utterance to the following:

In accordance with universal expectation the Supreme Court of the United States has decided that Judge McKean's mixture of courts, juries, statutes and indictments in the Territory of Utah invalidates all the work undertaken by that zealous but unreasoning Daniel. * * * The righteousness of the decision will be applauded throughout the country, despite the regret, equally universal, that such a decision must carry with it so many mortifying consequences. McKean's zeal overleaped itself; and the \$30,000 expended uselessly under his dictation have contributed to Mormon material wealth in the past, and must now contribute many fold more to Mormon jubilation. * * * Judge McKean's usefulness in Utah as an evangelizer is not in the least impaired. He may still prove a Daniel to convert, but he cannot longer be a Daniel to convict. The Supreme Court of that Territory should now be placed in the hands of an experienced judicial officer who has more or less appreciation of the distinctions between local and general courts, and will not summon juries by statutes under which they cannot act.

The New York *Tribune* said:

The decision is considered as very damaging to the Administration, as Judge McKean was supported in the course he took by the President, though Attorney-General Williams was always of opinion that the proceedings in Utah were illegal. The prosecution of the Mormons was known to be a distinctively Administration measure set on foot by the advice of Rev. J. P. Newman, after his return from Salt Lake, where he went to discuss polygamy with some of the prominent Saints.

Said the Boston *Post* :

It is understood that United States District Attorney Bates, who was to be removed because of his having opposed McKean's course and decision, taking the same ground of unconstitutionality that the court has just sustained, will now tender his resignation. He considers himself fully vindicated as a lawyer. It will be remembered that he had previously refused to resign when requested to by the President. Judge McKean was in the Superior Court while the Chief Justice read the decision from a full bench. He still affirms the constitutionality of his own views.

From the San Francisco *News-Letter*:

The decision is a very important one, and is a virtual declaration by the highest authority in the land that no portion of the people of the United States—however abhorrent their religious faith—can be deprived of their liberties except by due process of law. In the prosecutions and indictments against the Mormons Chief Justice McKean, his associates, political intriguers and anti-Mormon religious sects, combined to overthrow the liberties of the Mormon people. * * * But the anti-Mormon fanatics in their zeal twisted and distorted the law to carry out their purposes. They have ignominiously failed, and the American people can feel grateful and secure that the Supreme Court—always the pride and hope of the nation—will be governed by law, and not by passions and prejudices.

Many other papers, some of them among the leading journals of the country, uttered sentiments similar to the foregoing.

Pursuant to the instructions of U. S. Attorney Bates, his assistant, Mr. High, as soon as he had received an official copy of the decision of the Supreme Court, declaring illegal the method pursued by the Utah Judges in empaneling juries, moved in the Third District Court that a *nolle prosequi* be entered in the cases of all persons held under indictments found by grand juries so empaneled, and that an order be issued for their release. The court granted the motion and the order was issued. On motion of Mr. High an order was also given to the U. S. Marshal to turn over to the Territorial Marshal all persons against whom indictments had not yet been found, but who were held upon warrants from committing magistrates. On motion of Mr. Hempstead an order was made cancelling all bonds given by parties under indictment for lewd and lascivious cohabitation. The court also ordered that all papers connected with offenses against Territorial statutes,

thereafter issued by its clerk, be directed to the Territorial Marshal. The date of these proceedings was April 30th. In the evening of that day Messrs. Hosea Stout, William H. Kimball, John L. Blythe, Brigham Y. Hampton, Alexander Burt and James Toms were released from custody, as was also the notorious Bill Hickman. On the 2nd of May the bail of Thomas Hawkins was reduced from \$20,000 to \$5,000, pending the passing upon his case by the Supreme Court of the Territory. The reduced bail was given and the defendant was set at liberty. He was never re-arrested, Judge McKean in the Supreme Court reversing his former decision against him.

President Young was already free. His case had been brought on a writ of *habeas corpus* before Judge Elias Smith of the Probate Court of Salt Lake County, where, after a two days' hearing closing on the 25th of April, it was ordered that the petitioner be given his freedom. Judge Zerubbabel Snow appeared for the President and Messrs. J. L. High and C. K. Gilchrist for Marshal Patrick, the respondent.

The rage of the ring at the failure of their conspiracy and the liberation of their intended victims found vent in curses both loud and deep. The next move of the indefatigable plotters against the peace and welfare of the community that so patiently tolerated them was to send abroad a fresh batch of sensational falsehoods in the shape of dispatches purporting to depict a terrible condition of affairs in Utah, and especially at Salt Lake City, as the result of the recent decision of the court of last resort. These dispatches were so outrageously libelous that the ire even of the non-Mormons was aroused against the slanderers, a fact shown by the following telegram in refutation of their evil reports :

To the Press of the Country :

The undersigned residents of Salt Lake City, without distinction of party, feel it to be their duty for various reasons, but more especially in the public interests of truth and fairness, to disabuse the public mind of certain false impressions which have been made of late by special telegrams sent from this city to the San Francisco *Chronicle*, New York *Herald* and other papers.

It is not true as has been represented that "great excitement exists in Utah" on

account of the recent decision of the Supreme Court of the United States, reversing the decision of Judge McKean in the Englebrecht case.

It is not true that the police are "specially busy arresting saloon keepers and merchants."

When these telegrams were sent forward only one arrest had been made, and in that case a notice to appear had been served the day before the Supreme Court decision was announced.

It is not true that "bloodshed is imminent" on account of said decision.

Life and property are today as secure in Utah as in any State or Territory of the Union. In short the statements above referred to have not the shadow of a foundation in truth, and we solemnly declare that the peace and good order of this community have been and are uninterrupted; nor is there the slightest reason to apprehend any disturbance whatever.

It is a matter of deep regret amongst all classes of business men in this Territory that the special dispatches sent from this city to the East are for the most part inaccurate and intensely sensational.

The undersigned present this statement of facts, to the end that business men abroad who have interests in Utah may not be deceived and misled:

| | | |
|--|--------------------|------------------|
| Warren Hussey, Prest. First National Bank, | | |
| Theo. F. Tracy, Agt. Wells, Fargo & Co., | | |
| B. M. DuRell, Prest. Salt Lake City National Bank, | | |
| Thos. P. Akers, | F. Goodspeed, | Jos. Stephens, |
| E. M. Barnum, | C. E. Wallin, | H. A. Reed, |
| D. B. Stover, | H. C. Goodspeed, | Thos. Davis, |
| Hadley D. Johnson, | R. C. Chambers, | Geo. E. Whitney, |
| E. H. Shaw, | Joab Lawrence, | J. W. Haskins, |
| John McGonigle, | Jo. Gordon, | H. S. Jacobs, |
| John Wiggin, | A. W. Nuckolls, | J. H. Todman, |
| Jno. N. Whitney, | Jas. W. Stainburn, | Wm. C. Campbell. |

Salt Lake, April 27th, 1872.

All the signers of this dispatch were non-Mormons.

CHAPTER XXIV.

1872—1874.

THE CONSTITUTIONAL CONVENTION OF 1872—A PROPOSITION TO ABANDON POLYGAMY FOR STATEHOOD—CONGRESS ASKED TO STATE TERMS FOR UTAH'S ADMISSION—VISIT OF THE JAPANESE EMBASSY—THE FIRST DEMOCRATIC AND REPUBLICAN ORGANIZATIONS IN THE TERRITORY—THE MORSE MEMORIAL MEETING—MORE NOTED VISITORS—INDIAN DEPREDACTIONS—THE FIRST LADY LAWYERS IN UTAH—THE PALESTINE PARTY—MORMON TOURISTS ON THE MOUNT OF OLIVES—MORMONS EXPLORING IN ARIZONA—CAMP CAMERON ESTABLISHED—A MILITARY EPISODE AT SALT LAKE CITY—THE JAIL ASSAULTED BY TROOPS—ANTI-MORMON OPPOSITION TO STATEHOOD—UTAH AGAIN REFUSED ADMISSION INTO THE UNION.

THE pursuit of the theme embodied in the preceding chapters down to the climacteric event of the Englebrecht decision, has hurried forward the pen of the narrator in advance of a certain historic happening too important to omit or to only briefly mention, and to which the attention of the reader must now be called. We refer to the Constitutional Convention of February, 1872, the object of which was to secure the admission of Utah into the Union as the free and sovereign State of Deseret.

As is well known this was not the first movement of the kind which had been made since the inception of the Territory. Never before, however, had the people, or their representatives—for it was the Legislative Assembly that put on foot the project—been so thoroughly in earnest in their efforts to throw off the shackles of Territorial serfdom, rendered so galling during the past two years by the tyrannical conduct of the resident Federal officials. What they had done was known, and known but to be detested and deplored; what they intended doing could only be surmised and dreaded. It was the general feeling throughout Utah that some action should be taken to put an end to the prevailing reign of tyranny and terror, which promised to continue so long as Judge McKean and his official coterie held sway. Statehood was regarded as the way of escape

from the evils present and impending. Not only was this the sentiment of the Mormon people, who were practically a unit on the proposition, but it was the desire of many of the non-Mormons of the Territory, the majority of whom, though they may not have favored the admission of Utah as a State, were not, as has been shown, in sympathy with the despotic and illegal course pursued by the anti-Mormon crusaders. These feelings bore fruit in the calling of the convention, of whose proceedings we will now treat.

Up to its nineteenth session, held in 1870, the Territorial Legislature had met annually, but this order had been changed by act of Congress, so that it was the twentieth regular, and first biennial session of the Assembly which convened in the City Hall at Salt Lake City, on the 8th of January, 1872, and organized by electing Hon. Lorenzo Snow President of the Council, and Hon. Orson Pratt Speaker of the House. The members, in their care for the public weal, were prompt in adopting the measures which they believed would contribute toward bringing a change in the anomalous and unpleasant condition of affairs. The means of relief sought being, as stated, in an application for admission into the Union, early in the session a bill was passed providing for and calling a convention to adopt a state constitution and submit it to the people. On the 27th of January, the proposed act was vetoed by Governor Woods, whose message was an acrimonious criticism of the Legislature for passing it. The law-makers gave little heed to the not unexpected malediction of His Excellency, and effected their purpose by immediately adopting a joint resolution containing the provisions of the vetoed bill. The Constitutional Convention, to consist of one hundred and four delegates, was called to meet at Salt Lake City on the 19th of February, and the election of those delegates was set for the 5th of that month. The response of the people at the polls was as general as the course of their representatives had been earnest and decisive, and evinced a willingness on the part of an overwhelming majority of the citizens to consider the formation of a State government.

In the nominations for delegates to the convention, which were made at mass meetings of the voters, distinctions of party and creed were set aside. Of the nineteen delegates from Salt Lake County, nine were non-Mormons. One of these, S. Sharp Walker, declined the nomination, as he was "entirely opposed to the admission of Utah as a State." The public, however, attributed the actual reason of his declination to the fact that the Liberals had just named him as their candidate for Mayor at the approaching municipal election in Salt Lake City. General E. M. Barnum's name was substituted as a delegate, and received the endorsement of the electors at the polls. The following comprised the Salt Lake County delegation: Mormons—Orson Pratt, Albert Carrington, Aurelius Miner, John Sharp, Albert P. Rockwood, Reuben Miller, William Jennings, George Q. Cannon, John T. Caine and Zerubbabel Snow; non-Mormons—David E. Buell, William Haydon, Thomas P. Akers, Thomas Fitch, P. Edward Connor, Enos D. Hoge, Frank Fuller, Eli M. Barnum and Hadley D. Johnson. After the election, General Connor refused to take part in the convention, claiming that he was still a resident of California.*

The interim between the election of delegates and the assembling of the convention was pleasantly relieved by a visit to Utah's capital of Hon. Charles E. DeLong, United States Minister to Japan, accompanied by the Japanese consul at San Francisco and the Japanese Embassy, which included such high dignitaries of the ancient empire as its Junior Prime Minister, a Privy Councilor, the Ministers of Finance, of Public Works, of the Foreign and Judicial departments, Chief Chamberlain of the Imperial Court, Brigadier-

*At the citizens' mass meeting which placed in nomination the Salt Lake County delegation, the following was adopted by acclamation: "Resolved, that it is the candid opinion of this large assembly that Chief Justice James B. McKean, in many of his official acts, and especially in refusing the bail recently asked for by the deputy U. S. District Attorney, J. L. High, under instructions from Washington, has manifested so unwise and oppressive a spirit, and so misused the power of his office, that his judicial course richly merits condemnation; and his removal from office is asked for in behalf of justice and equal rights for all before the law."

General of the Imperial Army, and a large number of other distinguished officials. Their object in coming to America was to establish diplomatic and commercial relations with the United States. A committee of reception appointed by the City Council went to Ogden and met the embassy, and the entire party reached Salt Lake on February 4th. On Tuesday, the 6th, a reception was given by the municipality to its honored guests, at which were introduced to them city and federal officials, officers of the garrison at Camp Douglas, members of the Legislature, and other public functionaries and prominent citizens. At the close of the ceremonies at the City Hall, the embassy were entertained at the mansion of Hon. William Jennings, from which place they proceeded to the Tabernacle, and then to the residence of President Brigham Young, with whom a pleasant and extended interview was held. On the 7th the visitors, with Governor Woods, Chief Justice McKean, Mayor Wells, the Territorial Legislature, and other officials and leading citizens, went to Camp Douglas upon an invitation from General Morrow, at whose quarters Prince Sionii Tomomi Iwakura, the Chief Ambassador, held a reception. General Morrow, accompanied by the Japanese General Yamada, also inspected the troops. The following day the Utah Supreme Court extended to the Japanese Chief Justice and his associates a formal reception, while at the Townsend House, on February 9th, "the first day of the fifth year of the reign of His Majesty, the Emperor of Japan," the embassy gave a complimentary dinner to the City Council committee and prominent officials. The visitors remained until the 22nd, when they departed for the East.

The Constitutional Convention assembled on the 19th of February, three days after the adjournment of the Legislature, and in its permanent organization chose General E. M. Barnum as President. When the regular order of business was entered upon, the constitution of the State of Nevada was selected as a basis.* It was

* On the day that the convention met—February 19th—Hon. John Cradlebaugh, formerly an associate justice of Utah, and subsequently first Delegate to Congress from Nevada, died at Eureka, in that State.

at this point that Judge William Haydon moved that the convention adjourn *sine die*. He stated that he had been elected to the convention without his consent, and that he was opposed to a state government, for the reason that the people had not declared in favor of it by public meetings and resolutions, petitions, etc.; that the population of the Territory was insufficient; that the increased taxation would be an onerous burden on the citizens, and that the convention was called without the authority of Federal or Territorial law. With the exception of the question of increased taxation, these points of objection had all been raised by Governor Woods in his veto message.

The motion led to a long and animated discussion, reaching to the close of the third day's session of the convention. The principal speakers were General Buell, Hon. Thomas Fitch, Colonel Akers, H. D. Johnson, Esq., General Barnum, Hon. George Q. Cannon and Judge Haydon. When a vote was taken, the result was ninety-three to one against the proposed adjournment.

It was during the consideration of this motion, on the second day of the convention, that Mr. Fitch delivered his great speech, from which several excerpts have been presented in previous chapters. It was a careful, non-partisan and elaborate review of Utah affairs. In the mass meeting which nominated Mr. Fitch as a delegate to the convention, he announced a policy that he had determined to pursue if elected. One feature of it was the advocacy of a concession by the majority in Utah regarding the practice of plural marriage. He said that he wished no person to vote for him as delegate under a misapprehension. He would give his earnest effort toward framing a state constitution that should recognize the toils, sacrifices and services, and protect the rights and interests of the pioneers who had built up a prosperous community in the wilderness; but he would also have that constitution provide for the necessities and interests of young, progressive Utah. He would endeavor to help frame an instrument that would "assimilate the social and political life of Utah to that of all the other States,

and that would aid to render her institutions homogeneous with theirs."

In accordance with his previously declared intention, Mr. Fitch, while addressing the convention, made an impassioned appeal to the delegates to incorporate in the constitution which they were about to frame a provision in harmony with what he believed to be the urgent necessities of the situation. Said he: "An influential Mormon said to me, not long since, upon his return from a trip east: 'I am satisfied that there is no safety for us without a State government, and that we can have no State government without concessions.' He stated the case with mathematical precision. There is no safety for the people of Utah without a State government; for under the present condition of public affairs, their property, their liberties, their very lives, are in constant and increasing jeopardy."

The speaker gave a concise narrative of the events of the religio-judicial crusade of McKean and his coadjutors up to the incarceration of Brigham Young, Mayor Wells and others, and continued:

This is but a beginning—what will be the end? Look over your public history and guess, if you can, the possible extent of the perils which environ you. Consider the facts and consider the falsehoods. There is not a misfortune which has befallen the people of Utah, there is not a slander that has been circulated against them, there is not an evil deed committed by a desperate outcast anywhere in this Territory during the last twenty-five years, but that may, by the help of perjury and malice, be framed into an accusation and conviction of hundreds of innocent men. Consider that when the Mormons turned their backs upon the Missouri a quarter of a century ago, and sought in the distant deserts a place where they could preach and practice their strange faith unmolested, they were followed each year by a few desperate outcasts. They were joined by men who were outlawed for crime as the Mormons were outlawed for religion. Men who had committed deeds whose detection was imminent, or men who sought to escape the pangs of conscience—such men followed the tide of Mormon immigration; they attached themselves to Mormon trains; they professed belief in the Mormon faith, and devotion to the Mormon leaders. They made themselves useful in a hundred ways by their knowledge of frontier life and a frontier country. It was impossible to know their histories, it was impossible to fathom their motives. They were often brave or desperate men whom it was not safe to offend, and so they were tolerated, given food, given shelter, given employment, although seldom wholly trusted. In all ages such men have sought the society and protection of religious associations. Every monastery of central and southern Europe in

the last century contained a few robbers and murderers who became monks to escape the rack, and sought the sanctuary to shun the jail. Let such men be tempted by a promise of safety or money, or be threatened with punishment, and they will come forward and attempt to swear their crimes upon others whose lives and hearts contrast with theirs as the white snow contrasts with the mire which it sometimes covers with its gentle garments of pity, or as the still and shining stars contrast with the lurid and hissing meteors they encounter in their march through space. How many of such men are there in Utah? Convicted liars, professional thieves, confessed assassins, trembling perjurers, who have hung for years upon the outskirts of the little societies which gathered together and built themselves up amid these mountain fastnesses. One such man has served to accuse and caused to be imprisoned several of your most honored citizens. Half a dozen such, instigated by cowardice and sordidness, would crowd every jail in the Territory.

After referring to some of the incidents and circumstances connected with the "Echo Canyon war," Mr. Fitch proceeded:

The Mormon people are judged abroad, not by their thousands of deeds of charity and kindness, but by a few deeds of blood unjustly accredited to their leaders. You will never hear how tens of thousands of people have been brought from famine and hopeless toil to lives of peace and plenty, but you will hear of the Mormon rebellion and of Mormon outrages. You will never hear of the thousands of emigrants who have been fed and sheltered and succored, but the Mountain Meadows massacre is in every mouth.

This partial judgment of the Mormons has necessarily some foundation. It would be strange indeed if in the eventful careers of these followers of strange lights, these pioneers of a new theology, these builders of queer temples, these wanderers of the frontier, these architects of a desert state, these men who have faced the storm and the savage, who have wrestled with the sterility of nature and the hatred of man, who have been in a state of almost constant war with somebody ever since their prophets were murdered in Carthage Jail, these men who have been environed with difficulties, and almost submerged with falsehood ever since they first forded the Platte; I say it would be strange indeed, if, when a drag net is thrown over their lives, some isolated facts should not be elicited which could be so twisted by a perjurer's tongue, and so shaped by an unscrupulous and relentless prosecution, as to secure convictions from packed and prejudiced juries. I marvel that so little should have been brought forward thus far. I marvel that it is only the assassin Hickman who is now dragged out of the deep. There are others, doubtless, who await his success to embark in the same business. * * * Perhaps the end of all this will be that some good men will be judicially murdered, and many others incarcerated in felons' cells.

You are standing on the verge of an awful precipice; your foes have guarded every outlet; your only chance is to break their ranks and gain the path of safety by the path of local sovereignty. You must have a state government. Every other interest should bend to this end, every sacrifice should be made to secure it. Elsewhere there is no strength, elsewhere there is no hope. Every other refuge of good men, every other protection of innocent men, is closed in your faces. A state government means juries not

selected from a class, but impartially from all citizens ; it means judges chosen by a majority of the people and not appointed from abroad ; it means officers of your own selection ; it means honest and economical government ; it means equal taxation ; it means peace ; it means security ; it means exemption from persecution—in a word, it means power—not the power of theocracy, nor yet the power of a ringocracy, but the essence of democratic-republican government ; the power of an intelligent, virtuous, public-spirited, popular majority. It means for Utah a practical establishment of those theories of government which our revolutionary fathers struggled and sacrificed to establish, which their sons struggled and sacrificed to maintain. It does not, as has been sometimes suggested, mean the establishment of theocratic, or autocratic, or personal rule. Those who apprehend such results reason in a narrow circle ; those—if such there be—who hope for such results fail to recognize the surroundings. A small and isolated society may be ruled in the primitive patriarchal fashion, but a large prosperous community with contending interests cannot in the nature of things be thus governed. The very conditions on which a state government would be obtained in Utah would be necessarily self-enforcing, and every right and privilege of every citizen would be secure.

The principal obstacle in the way of obtaining a state government is one which is in the power of the people of Utah to remove ; it is the obstacle of an anomalous, unpopular social institution. It is indeed true that the local opponents of a state government offer other reasons and endeavor to make other difficulties against the admission of Utah into the Union—but these will not, in my opinion, be seriously regarded by Congress. (The speaker here made a brief reply to the anti-state arguments of insufficient population and increased taxation.) The objection to a state government, an objection urged by a handful of people and an irresponsible guerilla press, that in case Utah is admitted the Mormons will control her politics and elect her officers and representatives, is an objection to which the Congress of the United States will in my judgment accord no weight whatever. That body will, I venture to predict, see no good reason why the Mormons, who constitute nine-tenths of the community, should not control public affairs here, and once satisfied that the social problem is in the way of a peaceful and just solution, there will, I think, be a disposition to give Utah the privilege of self-government.

The question of State government or no State government for the people of Utah is simply a question of concession on the part of the people of Utah. I say a question of concession. I doubt indeed if it be longer than that. The universal voice of a democratic-republican nation of forty millions of people seems to be consolidated into a demand with respect to Utah, a demand which may perhaps be the offspring of prejudiced opinion, but if so, it is an opinion which will not be enlightened and which cannot be disregarded or overruled. The demand is that the future marriage laws and marriage relations of Utah be placed in consonance with the rest of the Republic. The demand is that polygamous or plural marriages shall cease. Accede to this demand and you may have a State government, with condonation of the past, and secure exemption from persecution for the future. Deny it and you will have neither a State government nor cessation of persecution. The war is over, secession is dead, slavery is dead, and in the absence of subjects of greater importance, Utah and her institutions will be the shuttlecock of Amer-

ican politics to be bruised and beaten by the battledoors of party for the next decade, unless she now grasp her opportunity and gain peace by gaining power.

In accordance with a public promise made when nominated to this convention, I stand here today to advocate the surrender of polygamy. It may be that my utterances in this behalf will take from me the friendship and support of many good men and women; if so I must even pay the penalty. It is easier to swim with the current than to seek to stem it, and perhaps it is wiser, but whether or not it is a policy I have seldom been able to practice. I have not permitted myself to be disturbed by the titles of "Jack Mormon," "Apostate Gentile," "Saint Fitch," and "Apostle Fitch," which have been so freely bestowed upon me during the last ten months by men whose small souls were incapable of comprehending that it was possible to pursue a great purpose by a liberal and comprehensive policy. That I am a friend of the Mormon people, wishing their welfare and happiness, and willing to do all in my power to advance that end, I have often publicly avowed by word and deed, and if my course in this respect shall have inclined this assemblage today to give more weight to my utterances than would have been otherwise accorded to them—then I am more than compensated for being often traduced and steadily misunderstood by many who in times past honored me with their confidence and support. In another forum than this it was my fortune two years ago to stand up almost alone to ask the representatives of a great nation to be just towards an honest, earnest, calumniated people, and perhaps I may stand alone today in asking the representatives of that same people to be just to themselves.

I am not here to attack polygamy from a theological, moral, or a physical—but from a political standpoint. Certainly I do not propose to question the pure motives or the honesty of those who believe in and practice it. I am inclined to agree with Montesquieu and Buckle that it is an affair of latitude, and climate, and race, and on these grounds alone its existence among a Saxon people, living in the North Temperate zone, is a climatic anomaly. It did not grow out of any structural, or race, or social, or climatic necessities, and if it be, as asserted, the offspring of revelation here, I can only say that it needed a revelation to start it. That it has scriptural patriarchal origin and example is probably true, but that was in another age than ours, and in a different land. If Abraham had lived on the line of the overland road in the afternoon of the nineteenth century; if Isaac had been surrounded by forty million monogamous Yankees; if Jacob had associated with miners and been jostled by speculators, there would, I apprehend, have been a different order of social life in Palestine. The Mormon doctrine may be the true theology, and the writings of Joseph Smith the most direct of revelations. The practice of polygamy may be a safeguard against the vice of unlicensed indulgence, and the social life of Utah the most sanitary of social reforms. All the advantages claimed for this system may be actual, but nevertheless the fact exists that polygamy is an anomaly in this Republic, existing hitherto by the sufferance of a people who now declare that it shall exist no longer.

Do you doubt this decision on their part? The evidences are all about you. Here is a people who expended thousands of millions of treasure and myriads of life to establish the freedom of the black race from oppression, and who yet regard with indifference if not with complacency the assault which has been made upon the rights and liberties of

American citizens in Utah because the object of those assaults upholds a hateful doctrine. Here is a people ordinarily jealous of the aggressions of rulers and officials, who yet endorse acts of despotism and applaud assaults upon law and constitution because such assaults are made for the destruction of polygamy.

What if judges should be changed, or policies altered? It would bring but temporary relief, for behind all, impelling all, contriving all, demanding all, enforcing all, there dwells the unconquerable, all-pervading idea of the American people that polygamy must be extinguished. On this one thing all parties, all creeds and all philosophies are combined. The press calls for it, the pulpit thunders for it, the politicians rage for it, the people insist upon it. You may delay the issue but you cannot evade it. Your antagonist is hydra-headed and hundred armed. Whether by bigoted judges, by packed juries, by partizan officers, by puritan missionaries, by iron limbed laws, by armies from abroad or by foes and defections at home, the assault is continuous and unrelenting. Your enemies are ubiquitous. Your friends—ah! it is your friends who advise you constantly to baffle your enemies and resign the practice of this one feature of your faith. The history of all similar movements warns you; the violated laws of latitude confront you; your children unconsciously plot against you, for, while polygamy is with you the result of religious conviction, with them it is but the result of religious education, and an inoculated doctrine, like an inoculated disease, is never very violent or very enduring.

Can this people hope to retain polygamy against such influences and such antagonism? Some tell me that they trust in God to uphold them in a struggle to keep polygamy. Others would doubtless say they trust in God to uphold them in the struggle to banish polygamy; and others that there can in the nature of things be no assurance that the Almighty will interest Himself in the matter, or espouse either side. The early Christians trusted in God when the Roman emperors gave them to the wild beasts. The Huguenots trusted in God when the assassins of St. Bartholomew's Eve made the gutters of Paris reek with their blood. So trusted the Waldenses when their peaceful valleys were given to rapine; so trusted the victims whose despairing faces were lit by the glare of Spanish *auto da fe*; so trusted the martyrs whose fagot fires gleam down the aisles of history, so trusted the Puritans when driven out upon the stormy Atlantic; so trusted the Presbyterians when the Puritans persecuted them; so trusted the Quakers when the Presbyterians expelled them; so trusted the Arcadians when driven from their homes; so trusted the myriads who in all ages have been sacrificed to the Moloch of religious intolerance. Who shall say when or in what cases or in what way the ruler of the Universe will interfere? "Render unto Cæsar the things that are Cæsar's and to God the things that are God's." A belief in polygamy is a matter between the citizen and his God; the practice of polygamy is a matter between the citizen and his country. If you think the laws of God call upon you to believe in it—then obey them unmolested—but the laws of your country call upon you not to practice it, so obey them—and *be* unmolested. If for His own purposes the Almighty did not see fit to interfere by special and miraculous providences to protect those who refused to recant their professions, is it probable that He will so interfere to sustain those who refuse to surrender the practice of an ordinance and that not a saving, although a sacred ordinance? I do not claim to know, I do not know what the Mormon doctrine may be with respect to the practice of

polygamy. I observe, however, that not one-tenth of your adult males actually practice it, and I naturally conclude that you do not consider its practice essential to salvation; that it is something to be practiced or omitted as opportunity or ability may warrant. If this be so, then may not that lack of ability or opportunity arise from the antagonism of others, from the circumstances of the country, from overpowering laws, as well as from the circumstances of the individual? If one Mormon is permitted by his creed to say, I believe in polygamy as a doctrine, but I do not practice it because my condition makes it inconvenient or impossible, why may not another say—why may not all say—we believe in it as a doctrine, but we agree not to practice it because the general conditions make it inconvenient or impossible? Why may not the earnest, conscientious Mormon say, I believe in polygamy as a doctrine, but in order to relieve my friends and associates from persecution, in order to prevent the establishment of intolerable oppression; in order to preserve the thrift, the industry, the wealth, the progress, the temperate life, the virtues of Utah from spoliation and devastation and ruin; in order to save a hundred noble pioneer citizens from outlawry or the gibbet or incarceration; in order to achieve self-government, and peace, and liberty, I consent to surrender its practice for the future. And so consenting I am content to embody my consent in the form of an organic law. So consenting I mean in good faith to do as I agree to, and so agreeing make my agreement public and of record.

To say, on the other hand, that you will make no compromise, that you will die rather than surrender the practice of this one feature of your faith, is the resolve of neither philosophers nor philanthropists. Such a resolve means another Nauvoo; it means that you consent to count more of your religious leaders among your list of martyrs; it means death to some, exile to others, ruin to many. If such be the well considered, deliberate determination of the Mormon people, there is no weapon in the armory of logic that will prevail against it, for you cannot reason with him who is bent on suicide. I hope no such conclusion has been or will be reached. I hope that the assembling of this convention indicates a different and wiser resolve. I speak to this people as a friend. I speak to them without thought of personal gain or advantage to myself to result from pursuing the course I suggest. Before God and before this convention I do most solemnly assert that did I intend to leave Utah forever on the morrow, I would give the same advice. Before God and before this convention I do most solemnly declare that did I know my little life would go out from earth with today's sun I would give the same advice.

To this convention I say, be wise in time. If you do not by this concession successfully organize a State government for yourselves now, the day is not far distant when your foes will organize one over your heads, and organize it upon such terms as will ostracize your most honored citizens from public place, if it do not disfranchise the body of your voters. The political history of some of the reconstructed States lies open to your perusal and for your warning. In politics as in finance the tendency of the age is to centralization. The triumphant career of a great political party demonstrates to you that there is no government so strong as a government of opinion, that there is no law so powerful as the will of a people. It is a turbulent and resistless torrent; constitutional barriers are swept down before it, laws are changed to accommodate it; courts are overwhelmed or carried away upon its crest, and institutions that lift up their voices against it are hushed by its mighty thunders.

Do not trifle with your opportunity. Do not wait the tardy action of Congress. Do not entail upon yourself years of oppression. Do not play into the hands of your foes. Do not close the mouths and tie the hands of your friends. Believe rather that this is the hour of triumph, that this is the "tide in your affairs which taken at the flood leads on to fortune." Believe rather that out of the wise compromise, the wise concession, which may have a beginning here, a happy future shall grow. That from this house the lovely State of Deseret shall go forth, with her errors forgotten, with her virtues shining like rubies upon her breast, to clasp hands with her sister States and march with them along the highway of empire which stretches from sun to sun.

The movement for a state government was warmly supported by all the speakers except Judge Haydon, the maker of the motion to adjourn. In his second speech he severely criticised Mr. Fitch for the latter's strictures upon Federal officials. He eulogized Judge McKean, and declared that he himself represented the sentiments of the Gentile portion of the community, and he would venture the opinion that, outside of the non-Mormons on the floor of the convention, there were not a hundred of that class in the Territory who were in favor of a state government. In the closing part of his address he turned his attention to the proposition to surrender polygamy, and earnestly entreated the Mormons not to look with favor upon the suggested concession. He said :

The peroration of my colleague's speech was mainly confined to appeals to the majority to sacrifice what they call a divine ordinance of their religion for the coveted bauble of a state government. Why, what change has come over the spirit of your dreams, that you with greedy ears caught the sweet cadence of the pleader's voice, wooing you from Charybdis to be wrecked on the treacherous Scylla! From conversations with many of you whom I believe to be gentlemen of integrity and honest religious convictions, from what I know of your history, your persecutions, trials and privations for your religion, I am not prepared to believe that, without a new revelation, prosperity has so weakened your faith as to trade off a divine ordinance for a "tinkling cymbal."

I entertain too much respect for you, and so does the Christian world, to believe you are sincere if you make the sacrifice unless new lights conscientiously guide you. Once lose the respect the world has for honest devotees to your faith, and you are gone, *gone*, GONE, like Lucifer, never to rise. What would you think of a Mohammedan, who, to gain a peaceful entrance to a river and thereby enrich his coffers, would be willing to sacrifice the Crescent for the Greek Cross? Why, you would think and act as the Turk thought and acted, and whom the Christian world sympathized with and granted succor to. Why, if you did make the sacrifice, do you believe, without more light, that the world would believe you were sincere? No!

Your very steadfastness to your faith amid the trying difficulties which encompassed you, like the "still small voice," found a lodgment in thousands of honest hearts all over the world. What will history write? What will the world say of a convention composed almost entirely of Latter-day Saints, among whom are six Apostles and twenty Bishops, ready and willing to sacrifice one of their divine ordinances for the sake of a State government?*

Hearken to the words of a Gentile who is no enemy of yours, but who has every reason to be your friend ; who has no favors to ask except those that one Christian may rightly demand of another : Stay where you are and bide your time ! "Learn to labor and to wait:" until a new ordinance shall manifest itself for your guidance !

There is no doubt that Judge Haydon voiced the sentiments of the anti-Mormons. They did not want the practice of plural marriage to cease, lest they should be without a plausible excuse for their assaults upon the constitutional rights of the Mormons. Through their influence many Gentile ladies were induced to sign a petition, some of them without knowing what it contained, praying Congress not to admit Utah as a State. Among the reasons assigned for the request was the preposterous assertion that during all the years that the Mormons had ruled Utah, no man's life and no woman's honor had been safe if either stood in their way, and that if the protection of the Government was withdrawn by the admission of the Territory the petitioners would have to abandon their homes and go elsewhere. On learning what they had signed, quite a number of the ladies repudiated the document, stating that its contents had been misrepresented to them, and while they did not favor statehood for Utah they denounced as false such statements as those mentioned. The names of some, including a number of children, had been signed without the knowledge either of themselves or their friends. A numerous signed petition by Mormon ladies, praying for statehood, was also sent to Washington about the same time.

* After the Convention had decided to go on with the work of framing a constitution, Judge Haydon stated that for fear Congress might "do an unwise thing by admitting Utah," he would remain to the end of the session and endeavor to secure the adoption of several provisions, one of which was : "Prohibition of polygamy hereafter, with heavy penalties, including disfranchisement of all political rights for violation."

On February 22nd, the fourth day of the convention, the committee reported the Ordinance and Bill of Rights for the proposed State. The ordinance was to "be irrevocable without the consent of the United States and the people of the State of Deseret," and its fifth section drew forth the major part of the discussion in the convention. It was a response to the appeal of Mr. Fitch. While it contained no concession in regard to polygamy, yet it inquired of Congress what were the conditions in relation thereto that would satisfy the nation, and gave a pledge to abide by those terms if the majority of the legal voters in the Territory should accept them. The section as adopted read as follows:

Fifth—"That such terms, if any, as may be prescribed by Congress as a condition of the admission of said State into the Union, shall, if ratified by the majority vote of the people thereof, at such time and under such regulations as may be prescribed by this convention, thereupon be embraced within and constitute a part of this ordinance."

The convention closed its labors on March 2nd, after electing Hons. Thomas Fitch, George Q. Cannon and Frank Fuller to proceed to Washington and co-operate with Delegate William H. Hooper in presenting the constitution to the President and Congress. Thus it was that those gentlemen were at the seat of Government when the Englebrecht decision was delivered.

On the 18th of March, the election provided for in the constitution was held, the document being ratified by an overwhelming majority of the voters in the Territory.* Ex-Governor Fuller was chosen Representative to Congress from the proposed State, the Legislature of which, at its session on Saturday, April 6th, selected Hons. William H. Hooper and Thomas Fitch as Senators. Four days previously the constitution had been presented in both branches of Congress and referred to the appropriate committees.

An effort was now made to align the voters of the Territory with the two great political parties of the nation. A call was

* The vote stood 25,160 in favor of and 365 against statehood.

issued on March 15th, to the Republicans of Utah, inviting them to send delegates to the party convention to be held at Salt Lake City on the 5th of April. The call was signed by Frank Fuller, Daniel H. Wells, Thomas Fitch, William Jennings and many others. This was virtually the first effort to harmonize local politics with those of the great national parties. On the 3rd of April a call was also made, signed by Thomas P. Akers, Hadley D. Johnson, E. D. Hoge and others, for a Democratic convention, to meet on April 8th, at Salt Lake City. Delegates to each convention were sent from various parts of the Territory, and met on the dates named. Both conventions were enthusiastic in their work, and had it not been for the fanatical anti-Mormon prejudice of the Liberal Party, which secured the defeat of the statehood movement, and by continued malicious assaults upon the Mormons compelled the perpetuation of the People's Party as a measure of self-defense, it is quite probable that the anomalous condition of political parties and affiliations in Utah would in 1872 have become a memory of the past.

Diverting attention for a time from matters political, brief mention may here be made of the Morse Memorial Meeting, held in the City Hall at Salt Lake City, on Tuesday evening, April 16th, simultaneously with the great national memorial meeting that convened in the House of Representatives at Washington. Responding to the request of the National Telegraph Memorial Monument Association, Mayor Wells issued a call for a public meeting at the time and place named, where the people of the city could "join with their fellow citizens throughout the union in the expression of sympathy for the illustrious dead." The preparatory arrangements for the solemn occasion included the draping of the City Hall entrance, in front of which the national flag floated at half mast, and the placing of suitable decorations in the room where the services were to be held. A wire had been stretched by Superintendent Musser from the Deseret Telegraph office on East Temple Street to the hall, and was connected with the necessary apparatus on a table, thus placing the assembly in direct telegraphic communication with

the East. Upon being called to order by Mayor Wells, the meeting organized, electing Hon. George A. Smith chairman; H. S. Eldredge, George E. Whitney, Elias Smith, Joab Lawrence, Edward Hunter, J. P. Taggart and Z. Snow, vice-chairmen; Lewis S. Hills, John T. Caine and Theodore McKean secretaries; David W. Evans reporter, and W. B. Dougall electrician. A committee on resolutions was chosen, consisting of Brigham Young, Jr., Joseph F. Smith, E. D. Hoge, C. H. Hempstead, E. M. Barnum, Theodore F. Tracy, John R. Winder, Mrs. Hannah T. King and Mrs. George Dunford. The following telegrams, sent during the day to the chairman of the memorial meeting at Washington, D. C., were read:

From Mayor D. H. Wells: "Our citizens meet at half past seven, Salt Lake City time, but fearing that their resolutions may come too late for your meeting, I forward the following in advance: Utah cordially joins the fraternity of States and nations in expressing sorrow at the demise, and the irreparable loss the world has sustained in the decease of Prof. Samuel F. B. Morse. Each successive year developed through the genius of Morse additional gems of electrical science, to the great benefit of mankind. In each development he recognized the finger of divinity; and in his unostentatious manner re-expressed the sentiment of his first telegram, 'What hath God wrought!' His name will shine in letters of living light throughout all coming ages."

From President Brigham Young: "Honor is due to the wise and great. Professor Morse was both. My affections follow him to the spirit world."

Here are the resolutions adopted by the meeting:

Whereas, it has pleased Almighty God, in His inscrutable wisdom, to call from earth Professor Samuel F. B. Morse, a man of brilliant intellect, full of years and full of honors; therefore be it resolved:

First.—That while we bow in humble submission to the will of Him who "doeth all things well," we cannot but feel that the world has lost one of its profoundest thinkers and certainly one of its greatest benefactors.

Second.—That we regard no homage too great, no sentiment too dear, no language too eloquent, to honor genius.

Third.—That we cordially unite with the vast multitudes, now assembled everywhere throughout the land, to do honor to him whose unrivalled genius made the lightning the messenger of man, and taught the nations “the mystery of holding converse beneath the seas.”

Fourth.—That we recognize in the life and labors of the illustrious deceased his fittest monument—one which has its foundation in all lands, and which shall live as long as time endures.

Fifth.—That we tender to the stricken family and friends of the deceased our heartfelt sympathies, and point them to their only real consolation—the assured hope of reunion and a blissful immortality beyond the grave.

General E. M. Barnum delivered an eloquent address on the life and achievements of Professor Morse, and eulogistic remarks were made by Hons. George A. Smith, C. H. Hempstead and Z. Snow. The resolutions were telegraphed to the Memorial Association at Washington.

Since the completion of the Pacific Railway an ever increasing volume of tourists had come annually to Salt Lake to view the wonders and beauties of the chief city of Mormondom. Visits of distinguished public men were not infrequent occurrences. By this means the people of Utah were becoming better known and understood, and a way was being opened for allaying, in part at least, the intense feeling of prejudice which beset them.

The first of those prominent in national political life to call at Salt Lake City in the season of 1872 was the Secretary of the Interior, Hon. C. H. Delano, who, accompanied by Mrs. Delano, General McDonald and wife, and others, was en route eastward from an extended tour of the Pacific Coast. The party were warmly welcomed during their two days' stay, and were highly pleased with their visit. The following month—June 16th—the excursion of the Iowa editorial fraternity, consisting of over one hundred persons, reached Utah's capital. Their reception and entertainment by President Young, Hons. George Q. Cannon, Frank Fuller, William H. Hooper, General Morrow and others, they designated, in resolutions adopted upon their return home, as a “continuous ovation.” The Iowa editors made a slight divergence from the usual line of travel

to the Pacific Coast by accepting an invitation of H. S. Jacobs & Co., and going from Lake Side, Davis County, to Corinne, Box Elder County, on the steamer *City of Corinne*. The citizens of that town gave them a cordial greeting.

By the last week in July the Presidential campaign between Grant and Greely was in full swing in the States, and as Senator John A. Logan was at that time in Salt Lake City he was induced to make a political speech in the Liberal Institute. His reference to local matters was brief, and complimentary to the resources of the country and the industry and energy of the people. In this connection he expressed an idea fully in accord with the sentiment of the great majority of the citizens of the Territory, namely: that there seemed "but one thing necessary to make them happy, and that was good government." His address was a strong advocacy of the re-election of President Grant.

In August came General James A. Garfield, who was then a member of the national House of Representatives. He was accorded every courtesy and kindness by the representative men of the community. He was accompanied by Major Swaim. Their special business at this time was to effect the removal to a reservation of the Flathead Indians in Montana. On August 24th, twelve days after General Garfield's departure, General George B. McLellan and party were met and welcomed by a committee of citizens, and likewise hospitably entertained.

A gentleman who had become endeared to the people of Utah, and especially those connected with its earlier history, reached Salt Lake on November 26th. This was General Thomas L. Kane, of Pennsylvania. He was accompanied by his wife and two sons. The General was an invalid, still suffering severely from wounds received during the Civil War, while fighting for the Union, and which eventually caused his death. His trip westward was taken on the advice of his physician, who thought that the mild winter of the California climate would be beneficial to the patient's health. During the winter General Kane made a visit to the warm region in

Southern Utah, returning from there to Salt Lake City, February 27th, 1873.

The most notable visitant to Utah during the latter year was Hon. James G. Blaine, Speaker of the national House of Representatives, who was then on his Pacific Coast tour and stopped over at Salt Lake from the 23rd to the 26th of May. The municipal council extended to him the hospitality of the city, and his party were met at Ogden by a committee comprised of Delegate W. H. Hooper, Mayor D. H. Wells and other leading citizens. On the Sabbath they attended divine worship in the Tabernacle, and at the close of the services continued their journey westward. For their convenience, the train on which they traveled was run up from the railway station to the south gate of the Temple Block—the first time that such an incident had occurred.*

Hon. Cyrus W. Field, the pioneer of the Atlantic Cable system, and Rev. Charles Kingsley, the celebrated novelist and divine, chaplain to Queen Victoria, also visited Utah at this interesting period of her history, and were accorded a public reception at Salt Lake City. The date of their arrival was May 15th, 1874.

One week later came General A. W. Doniphan, who has already been mentioned in connection with the Missouri experiences of the Latter-day Saints. He it was who, at Far West, in 1838, denounced the proposed execution of Joseph Smith and other Mormon leaders as cold-blooded murder, in which he would have no participation. The second day after General Doniphan's arrival, Henri Rochefort, the noted French communist, who had been banished to New Caledonia and had lately made his escape, reached Salt Lake, en route to

* Included in the *personnel* of the party were the following; James G. Blaine, Horace F. Clark, Gail Hamilton, Mr. Routledge, the publisher, and the British Minister to Japan. At the Tabernacle the party listened interestedly to a discourse by Elder George G. Bywater, and were not a little surprised to be informed by Bishop John Sharp, their local chaperone, that the speaker was the engineer of the railway train which had brought them from Ogden to Salt Lake, and upon which they were about to return to the Junction City.

Europe from his temporary and enforced abode on an island in the South Pacific Ocean.

It has been stated that the Black Hawk Indian troubles of 1865-69 ended all organized warfare on the part of the aborigines in Utah. The spring of 1872, however, witnessed some desultory depredations by the savages, which threatened at one time a general outbreak. The primal cause of disaffection among them was the treatment received at the hands of some dishonest Government agents, and acts of lawlessness committed by renegade white men. These troubles did not originate in Utah, but in the northern Territories, whence they spread to this region.

During the previous autumn hostilities in Southern Utah and Arizona had been barely averted by the good offices of Jacob Hamblin, the well known Indian interpreter, who, at Fort Defiance, on November 2nd, 1871, concluded a treaty of peace on behalf of the people of this Territory with the principal chiefs of the Navajoes. When winter was over the scene of trouble was shifted farther north, and while the majority of the savages were friendly to the settlers, a portion of them seemed bent on mischief. This was partly an effect of the warlike feeling exhibited at that time by hostile tribes generally throughout the country.

Under these circumstances Special Indian Agent G. W. Dodge, early in 1872, sought to redress the grievances complained of by the Indians, and distributed large quantities of flour, beef and other supplies among them. The unruly ones, however, became more insolent with the efforts to pacify them, and levied a burdensome tax on the settlements in central Utah by their persistent begging and stealing. On the 16th of June, in a raid by a band of Shiberetch Indians upon Twelve Mile Creek, Sanpete County, Niels Heiselt, Jr., of Pleasant Grove, was killed. The next two months witnessed a series of depredations in which several white men were shot and a large number of stock driven off. From friendly Indians it was learned that the hostiles were mostly members of unorganized bands such as the Capotahs, Mogoots and Elk Mountain Utes.

During the period when the major portion of these outrages were committed several hundred Indians were paying friendly visits to the settlements in Sanpete, Sevier, Juab and Utah Counties. As some of them moved about in small companies, there was difficulty in distinguishing which of the roving bands were hostiles. Colonel Dodge endeavored to simplify the situation by having all peaceable red men return to the reservation, but these could not be made to fully comprehend why they should be restrained because of the action of hostiles not of their tribes. Therefore, though they consented to the measure at a council at Nephi on July 5th, and again at Fountain Green on the 14th, 15th and 16th of that month, they failed to fulfill their agreement, thus complicating matters. The aspect of affairs gradually became more serious. Even Indians formerly disposed to be friendly were implicated, and on August 12th, General D. H. Wells received the following message from Colonel R. N. Allred, of Spring City: "Tabby sends word to all the Bishops that he can control his men no longer. He was in Spanish Fork Canyon yesterday. I, with a detachment, brought the herd from Thistle Valley yesterday, having started as soon as I got word of the raid at Fairview. The wounded boy, Stewart, is dead."

Next day R. L. Johnson, of Fountain Green, telegraphed to Indian Agent Dodge for troops for the defense of the people, against whom some of the savage bands had become incensed on account of obedience to Dodge's orders not to feed them, as he would furnish them plenty on the reservations. On the 17th, Colonel J. L. Ivie, of Mount Pleasant, sent a dispatch to General Wells, asking if he should call out his regiment of militia. That morning General Morrow left Camp Douglas with a body of troops to take the field against the hostiles. By the co-operation of leading men in the settlements and friendly Indians, the General secured a council with several chiefs, and after a long pow-wow, held in front of the residence of Interpreter L. S. Woods, at Springville, made a treaty which was signed by Chiefs Tabby, Douglass, Joe, To Kawanah, Antero, Waunrodes, Parrades and Tom. Colonel Dodge, Hon. A. O. Smoot,

Colonel L. John Nuttall, Bishop William Bringhurst, Generals A. K. Thurber and William B. Pace, and other citizens were present. The treaty provided that the Indians should return at once to the reservations, and General Morrow was to apply to President Grant for permission for several chiefs to visit and lay before him their grievances; or if this was not agreeable, to ask that an investigating commission be sent out by the Government.

The Shiberetch, Capotah and Elk Mountain bands, with a number of Navajoes, were still on the war path, however, and troops were kept on scouting expeditions against them. On September 7th, General Morrow, Apostle Orson Hyde, Bishops Seeley, Tucker and Olson, Colonel Allred and other citizens met a number of chiefs who had not been represented at former councils. Among these were Tabiona, Angitzebl, White Hare and some who were known to have encouraged, if they had not taken part in, predatory incursions. All entered into a treaty of peace, and it was believed that the principal danger of a war was past. But apprehensions were again aroused on September 26th by the following dispatch from Apostle Orson Hyde, at Spring City, to General Wells: "The Indians are upon us. Several horses were stolen last night. This morning a man was shot off from a load of lumber, and his little boy wounded in the hip and wrist, near Snow's Mill, in this place. The murdered man is said to be Miller, from Salt Creek."

This was the last serious raid made by the hostiles, and matters soon quieted down to their normal condition. The settlers had suffered more severely than they otherwise would have done, both in loss of life and property, because of the proclamations of Governor Shaffer and Acting-Governor Black, prohibiting the assembling of the militia. Governor Woods refused to rescind that order, when applied to in July of this year, even to enable the people to defend themselves. Of the action of the citizens in obeying the edict of the Executive, General Morrow said, in his report to Indian Agent Dodge: "I think I may say with truthfulness that there is not another American community in the nation which would have

endured half the outrages these people have endured, before rising up as one man to drive out the savage invaders at the point of the bayonet. On any principle of self-defense they would have been justified in doing this." In the same letter the General made this recommendation: "Now, sir, I have given you a plain statement of facts, and I desire to invite your attention, and through you the attention of the Indian Department, to the justice and propriety of making this people some recompense for their losses. This may be done, I believe, from the appropriation made by Congress for these tribes. It is only an act of simple justice to the poor people who have suffered so severely that it should be done. It is some time since I had occasion to examine the subject, but I believe there is a law of Congress, I believe of 1834, which authorizes compensation to be made in cases like the present, and prescribes the manner in which it shall be done. If this course is pursued now, it will not only be proper in itself, as an act of justice to the people, but it will also teach the Indians that they cannot commit depredations with impunity."

To General Morrow's letter Colonel Dodge replied: "I fully concur with you in all the statements you have therein made;" adding, "Your reference to the great losses on the part of the citizens of the disturbed district is eminently just, and I shall do everything in my power to bring such relief to the sufferers as the law will allow." He also supported General Morrow's application on behalf of the Indians, asking permission for a delegation of chiefs to visit President Grant. This application was favorably acted upon, and on October 17th, Chiefs Waunrodes, Antero, Tabiona and Kanosh, accompanied by Judge George W. Bean, of Provo, as interpreter, left Salt Lake City with Special Agent Dodge, to confer with the "Great Father" at Washington. Since then predatory acts by Indians in Utah have been rare.

Included in this *pot-pourri* of local events should be an incident that occurred in the Third District Court at Salt Lake City on September 21st, 1872. It was the admission to the bar of two

ladies, Misses Phœbe W. Couzins and C. Georgie Snow, the former a resident of St. Louis, and already a practicing attorney in the courts of Missouri and Arkansas, and the other a resident of Salt Lake, and daughter of the veteran lawyer, Judge Zerubbabel Snow. On motion of Governor Woods, Miss Couzins was first admitted, and after her name had been placed upon the roll of Salt Lake attorneys, Major C. H. Hempstead moved the admission of Miss Snow. He referred to the lady's careful study of the principles of law, and added: "I am enabled to state that she is fully competent to be admitted to this bar; fully competent to meet almost any of us, not only in talking but in reasoning at the bar. And on this statement of my own personal knowledge and examination, united with that of her father, as to her qualifications, I rise with pleasure to move her admission to the bar, as the first of Utah's daughters who has entered the profession of the law." After the usual formality of examination by a committee as to legal qualifications the motion was granted.

In October, 1872, a number of Utah's citizens started on a trip to the Holy Land. The leader of the party was Hon. George A. Smith, one of the First Presidency of the Mormon Church, who left Salt Lake City on the 15th, accompanied by Hon. Feramorz Little, and later was joined by the other members of the company. The *personnel* of the party was: President George A. Smith, Apostles Lorenzo Snow and Albert Carrington, Hon. Feramorz Little, Paul A. Schettler, Esq., Thomas W. Jennings, Eliza R. Snow and Miss Clara S. Little. George Dunford, Esq., started on the journey, but when in Italy he received letters stating that business affairs required his presence at home, and he at once returned. Apostle Erastus Snow, Elders Junius F. Wells, George F. Gibbs, and other citizens of this Territory accompanied the tourists during a portion of their journey through Europe. The program was to make a tour of various countries of Europe, visiting the chief cities, and then proceed by way of Egypt to Palestine and Syria; thence returning *via* Constantinople and London. At Paris, on December 17th, the party had a pleasant interview with M. Thiers, President of the French

Republic. They arrived at Jerusalem on February 25th, 1873, and on March 2nd held divine worship on the Mount of Olives. Their object in visiting and worshipping on the sacred spot is explained in the following excerpt from a letter by Presidents Brigham Young and Daniel H. Wells to President Smith: "When you get to the land of Palestine, we want you to dedicate and consecrate that land to the Lord, that it may be blessed with fruitfulness, preparatory to the return of the Jews, in fulfillment of prophecy and the accomplishment of the purposes of our Heavenly Father."* On March 5th the party left Jerusalem, and on the 15th reached Damascus. From there the journey homeward was begun. President Smith arrived at Salt Lake City on the 18th of June. Some of the company preceded him a few days, while others followed, and all returned in safety.

In harmony with their well known policy of opening and settling new country wherever practicable, a move was made by the Mormons, early in 1873, to plant colonies in Arizona. A large number of missionaries were called from different parts of the Territory, and on March 8th, many of them met in the Salt Lake Tabernacle, and received such instruction as President Young regarded necessary for the object in view. Soon afterwards, those selected for the purpose wended their way southward in organized companies. In a telegram dated April 10th, to the New York *Herald*, replying to an inquiry from that paper, President Young thus

* Regarding this event Miss E. R. Snow wrote: "President Smith made arrangements with our dragoman, and had a tent, table, seats, and carpet taken upon the Mount of Olives, to which all of the brethren of the company and myself repaired on horseback. After dismounting on the summit, and committing our animals to the care of servants, we visited the church of Ascension, a small cathedral said to stand on the spot from which Jesus ascended. By this time the tent was prepared, which we entered, and after an opening prayer by Brother Carrington, we united in the order of the Holy Priesthood, President Smith leading in humble, fervent supplication, dedicating the land of Palestine for the gathering of the Jews and the rebuilding of Jerusalem, and returned heartfelt thanks and gratitude to God for the fulness of the gospel and the blessings bestowed on the Latter-day Saints. Other brethren led in turn, and we had a very interesting season; to me it seemed the crowning point of the whole tour, realizing as I did that we were worshipping on the summit of the sacred mount, once the frequent resort of the Prince of Life."

referred to the movement: "We intend establishing settlements in Arizona, in the country of the Apaches, persuaded that if we become acquainted with them we can influence them to peace in accordance with President Grant's Indian policy, and open up that country to settlement by the whites. Our cities, towns and villages now extend about four hundred miles in that direction, and, in view of the railroad crossing that country, we hope to be prepared to assist in its construction, and when completed bring a large portion of our emigration that way to settle the country."

An arduous journey brought the first company to its destination—the Little Colorado River—on the 22nd of May. The appearance of a country composed chiefly of rocks and sand was truly forbidding; while scarcity of water made it unfit for human habitation at that period. The Little Colorado becomes dry in the warm season. By May 28th the water had disappeared, so that the entire company had to retire twenty-five miles to Mohave Springs. Word was sent to President Young of the barren nature of the country they were in and the obstacles encountered, and on July 22nd the mission was temporarily abandoned. Though this first effort resulted in failure, so far as establishing settlements was concerned, the experience gained was a means of aiding the successful colonization subsequently effected in the far south.

The month of September, 1873, witnessed the construction of military barracks at Beaver. A post had been established there in May. On the 7th of that month a detachment of two hundred and fifty troops arrived in the Territory for the new camp. The following letters had previously been sent to General Ord, commanding the military department of the Platte, and by him forwarded to the War Department. The suggestion to found the new post received the endorsement of Secretary of War Belknap, on May 6th, 1872. The letters bear date of January 12th of the same year.

Sir:—Being one of the associate justices of the Supreme Court of the United States in and for the Territory of Utah, and judge of the Second Judicial District Court of said Territory, I beg leave to say that my district embraces the extreme southern part of

the Territory, in which was committed what is known as the Mountain Meadow Massacre, in which over one hundred and twenty innocent men, women and children were slaughtered in the most barbarous manner. This district is settled almost entirely by Mormons, there being only about two hundred Gentiles in the district. From the time of said massacre there has been a rising feeling in the minds of the Gentiles and a few loyal Mormons against the principal leaders and perpetrators of that deed. At every session of the court this question has been brought up by the grand jury, or rather by individual members thereof, and yet the United States Attorney and the jury have not dared to introduce the subject to be investigated, because, they say, witnesses who were present at, and were forced into the bloody work feel that their lives would be rendered insecure should they testify to the facts; but, they say, whenever the government of the United States will guarantee their protection they will freely testify to all the facts.

I am fully satisfied from my experience in that district for the last three years, as the judicial officer of the court, that their feeling of insecurity is well founded, and it will require a military force established in that district, say at the city of Beaver, of at least five companies, to render the protection needed effective.

There are several indictments now in the hands of the United States Marshal, to execute upon felons, which he reports he is unable to execute. Beaver City, where I hold my court, is two hundred and twenty miles west of south of this city. It is beautifully situated, well watered and healthy, and, besides it is the diverging point leading to Pioche, one hundred and twenty miles west, and to St. George, one hundred and ten miles west of south, and it is about one hundred miles east to Knob*—the Gibraltar of church felons—where there are one hundred and twenty men thoroughly armed, and where the leaders of said massacre have taken refuge.

In addition to these considerations, a few miles south of Beaver City the annual Indian raids upon the settlements take place, and therefore a post at Beaver City would be a proper place to do most service to the country.

I adjourned my last October term of court, after disposing of my civil docket, until the second Monday in May next, in order that all the facts and needs to the execution of the laws and the protection of loyal citizens might be fully understood by government and by this military department. Whenever it is safe, and the government desires criminals punished and will furnish the necessary support and means to prosecute them, the court and its executive officers are ready to proceed.

If you establish a post at Beaver City, or near there, it ought to be done by the last of April or the first week in May. At that season it will be the best time to move troops, supplies, etc. By that time the roads from here will be in the best possible condition. Soon after the first week in May the weather becomes hot and dry.

Hoping to hear from you soon and favorably upon these suggestions, I have the honor to remain, respectfully, etc.,

C. M. HAWLEY.

*By this reference was meant the small settlement of Kanab, where there were at that time, including the members of Major Powell's government exploring expedition, only about thirty men.

The second letter was from Governor Woods, giving his endorsement to the foregoing. He said:

SIR :—The within letter from Judge C. M. Hawley, of Second Judicial District, Utah Territory, to you, has been referred to me. I endorse the statements therein fully, and express the hope that you may establish a post in southern Utah as soon as practicable. I had the honor to lay this matter before Major-General Augur, and, through him, before Lieutenant-General Sheridan, during the summer of 1871, and had a favorable response. To be most effective it should be a four or five company post—two or three companies of cavalry and one or two of infantry. Without the presence of the military in that remote portion of the Territory it will be utterly impossible to enforce the law.

An official who administers justice must express the truth. Judge Hawley did neither in his covert intimation that the non-enforcement of the laws was due to antagonism by the Mormon people. In this regard his letter and the endorsement of Governor Woods were as untrue in fact as they were malignant in purpose. Their real intent, as generally understood at the time, was to aid in procuring anti-Mormon legislation. The people, however, did not object to the presence of the troops at Beaver, but rather welcomed them as adding to the volume of business in that vicinity. At first the title given to the new camp was the Post of Beaver, but by order of General Sheridan it was, on July 1st, 1874, changed to Fort Cameron in honor of Colonel James Cameron, a gallant New York soldier who fell in the War of the Rebellion, July 21st, 1861. The fort was maintained for a number of years, but finally the troops were withdrawn, as no necessity for their presence existed.

In connection with military matters, reference may here be made to an incident that took place at Salt Lake City in 1874. Some of the soldiers of the Thirteenth Infantry, stationed at Fort Douglas, were very unruly. The associations and sympathy of this class were with the saloon element, which was hostile to the municipal officers because of their efforts to restrain the liquor traffic. Consequently there were frequent disturbances of the city's peace by drunken soldiers. The guilty parties were rigidly punished when caught, which was not an easy task, as the moment they reached the military reservation they were safe from arrest. The Secretary of War had

issued a general order exempting the troops from prosecution under municipal ordinances, and requiring that all such offenses be dealt with by the military authorities. This was interpreted at Camp Douglas to mean immunity, not only from prosecution, but from arrest by the city police department. A similar view was taken by Judge-Advocate-General Holt on an *ex parte* statement made to him in behalf of the soldiers. The situation produced by this ruling and a failure of the military officers to punish for violations of the city ordinances encouraged reckless and drunken soldiers in their deprecations, so that in that portion of the city traversed by them when returning from the saloons to their quarters after nightfall, the citizens began to feel that life and property were insecure. This state of affairs caused the city officials to continue the enforcement of the ordinances against turbulent "boys in blue," and as neither side evinced a disposition to recede from its attitude, at least until the questions at issue were determined by the courts, considerable friction between the police department and the military resulted.

It was under these circumstances that the incident mentioned occurred. On the 10th of June an aged gentleman and ex-Federal official, Judge Solomon P. McCurdy, was, without provocation, brutally assaulted in the street by Thomas Hackett, a soldier. Citizens arrested the offender and took him to the city jail, where he was placed in custody. Next morning Lieutenant Dinwiddie demanded the prisoner from Police Justice Clinton, who refused to order Hackett's release. By instruction of General Morrow, Captain Gordon and a troop of cavalry appeared at the City Hall about noon, and after an interview with Governor Woods the officer ordered his men to batter down the jail door. While this was in progress, Captain Gordon went into the fire department and demanded of Thomas Higgs that he deliver up the prisoner. Mr. Higgs replied that he was a fireman and had nothing to do with the jail or police department. The irate officer loaded his gun and, with an oath, threatened to shoot Higgs if he did not immediately leave the room. The fireman retired, and Gordon returned to his men, who, not

being able to force the jail door, had torn part of the iron grating from a window and liberated Hackett. The soldiers then left, howling and yelling like demons. No requisition had been served on the Mayor or other proper official for Hackett's release, but no effort was made to interfere with the troops.

The city officials, however, did not cease arresting and punishing disorderly soldiers. They were resolved to get the matter into the courts, and there learn whether the civil power was to be entirely subservient to the military in time of peace. Another offender, Frederick Bright, was taken into custody for drunkenness and disturbing the peace, and fined five dollars, in default of which he was committed to jail. General Morrow, who evidently felt that he had made a mistake in the Hackett case, did not wish a repetition of the proceedings of the 11th, in the face of the public sentiment which had been aroused. He therefore proceeded, in the Bright affair, on a writ of *habeas corpus*. The dispute was settled by the Territorial Supreme Court, which decided on June 16th that the police had the right to arrest offending soldiers; but that they must be surrendered upon a formal demand by the proper military officer, or they could be taken by force. The decision was an equitable one, yet, because of the feelings engendered by the causes leading to it, perfect harmony between civilians and soldiers was not immediately restored. This fact was observed by Lieutenant-General Sheridan, who arrived at Camp Douglas on July 4th, accompanied by General Ord. He caused the Thirteenth Infantry to be superseded by the Fourteenth regiment. The new commandant, General John E. Smith, reached the post on August 27th. Since that time the administration of the law under the rule laid down in the Supreme Court decision has operated smoothly between the municipal and military authorities.

Returning to the consideration of events associated with the political movements narrated in the first part of this chapter. The framing of a State constitution and the earliest organization of Republican and Democratic parties in the Territory have been

related. The possibility that Congress might admit Utah into the Union aroused the anti-Mormons to vigorous action. Meetings were held at which the Mormons and their friends were denounced and threatened; petitions against statehood were circulated and signed, and the followers of the Liberal Party were regaled with hobgoblin stories of the frightful condition that would ensue if the Territory were given State government.* Joseph R. Walker, Henry W. Lawrence and Robert N. Baskin were sent to Washington to inform the administration of the terribly disastrous effects that local self-government would bring, and so intent upon this purpose were these gentlemen that they went upon this errand at their own expense. A secret organization—the “Gentile League of Utah”—was formed, with the purpose of creating a rupture that should cause military interference in the affairs of the Territory. In fact, anti-Mormonism was wrought almost to a frenzy in its effort to ward off what it deemed its prospective death-blow. The result was that Congress took adverse action upon Utah’s petition for statehood, failing to even intimate, as invited to do in the constitution which had been framed, upon what terms of compromise it would favorably consider and act upon her application for admission into the Union.

* Though a unanimity of sentiment prevailed among Liberals as to the policy of opposing statehood and the Mormons, the relations with each other of the party chiefs were not altogether peaceful. Facts indicating absence of harmony, however, were suppressed, so far as possible, for party reasons. One notable instance which occurred at the time of the movement for statehood was connected with Chief Justice McKean, and has been briefly mentioned in a previous chapter. This was his writing of editorials for the Salt Lake *Tribune*. At a meeting of the directors and editors of that paper, held shortly afterwards, O. G. Sawyer, managing editor, resigned, and in his published valedictory stated as the cause, “a journalistic incompatibility” between himself and the directors. Mr. Edward W. Tullidge, who was then associate editor of the *Tribune*, was at the meeting. He states in his History of Salt Lake City, that E. L. T. Harrison denounced the course of Mr. Sawyer in constituting the paper a special enemy of the whole Mormon people; and “above all he impeached the managing editor on the specific charge of having permitted Judge McKean to write editorials sustaining his own decisions.” Mr. Tullidge adds, in reference to the managing editor’s retirement, “It was not, however, because of any journalistic incompatibility between Mr. Sawyer and the directors, but for the reasons herein given. The valedictory was allowed to pass, and the reasons kept from the public, greatly out of consideration for the Chief Justice himself.”

CHAPTER XXV.

1872—1874.

THE GENTILE LEAGUE OF UTAH—ITS BRIEF AND BOOTLESS CAREER—THE AUGUST ELECTION OF 1872—GEORGE Q. CANNON ELECTED DELEGATE TO CONGRESS—A CHANGE OF FEDERAL OFFICIALS—WILLIAM CAREY, U. S. DISTRICT ATTORNEY, AND GEORGE R. MAXWELL, U. S. MARSHAL FOR UTAH—ASSOCIATE JUSTICES EMERSON AND BOREMAN—GOVERNOR AXTELL—UTAH AGAIN IN CONGRESS—SUNDRY MEASURES PROPOSED—PRESIDENT GRANT'S SPECIAL MESSAGE ON UTAH—THE POLAND LAW.



HE Englebrecht decision, by overturning Judge McKean's Janus-faced tribunal and annulling its decrees, had sadly disarranged the plans of the anti-Mormon crusaders. In the face of their sore-defeat and the new development of an application for statehood on the part of the vast majority of Utah's citizens, they felt that something must be done to convince Congress and the country that, while not upheld by existing statutes, the acts of the McKean combination were so far justified by circumstances as to warrant legislation authorizing just such measures. There was also the design of keeping up such an agitation as would render imminent a violent outbreak; for "the ring" had not yet relinquished the hope of bringing about a conflict in which United States troops would be arrayed against the Mormons.

The first object was partly subserved by a series of atrociously false dispatches sent out by Mr. O. G. Sawyer, of the *Salt Lake Tribune*, to the *New York Herald*, and by Mr. A. S. Gould, as the local agent of the Associated Press. They stated that "civil disturbance" was imminent through the "arrogant oppression" by the Mormons; that the judicial authorities at Washington had "stripped the Gentiles of all protection by placing the courts in the hands of Mormons," and that the former "must now rely on their own strong

arms to protect themselves;" that "the excitement among the Gentiles was intense, and bloodshed was momentarily expected," and that "the baser element" of Mormondom was "on the rampage to such an extent" that the Gentiles were "arming themselves for mutual protection." These dispatches were so utterly baseless that leading non-Mormon professional and business men were alarmed, and voluntarily sent messages to members of Congress and to the press throughout the country denouncing as "infamous and libelous" the sensational reports touching the Utah situation. The telegrams of Messrs. Sawyer and Gould were of course inspired by "the ring," whose willing tools they were. Their slanders were in a measure effective in giving the public the erroneous impression that a degree of insecurity for Gentiles existed in this Territory.

The other object was also aided by these sensational dispatches, which were designed to mask the movements of the crusaders in their scheme to bring about a violent and bloody collision. It was believed to be their fell purpose to precipitate that collision at the general election in August, 1872. Under cover of "arming and organizing for protection," the secret society known as the "Gentile League of Utah" was formed. Within its program—if statements from its own side may be relied upon—was the deliberate massacre of municipal officers and citizens. Such a purpose, it is said, was really conceived, and only awaited an opportunity for its execution. That opportunity, it was hoped by the leaders of the league, would be afforded at the election. Associated with the work and purposes of this lawless organization were leading Federal officials, and prominent at public meetings where its power and purposes were boasted of, were such men as Judge Strickland, General Maxwell, R. N. Baskin, J. M. Orr, Rev. Norman McLeod and other anti-Mormon radicals. At a meeting on East Temple Street, in front of the Salt Lake House, Judge William Haydon declared that if the populace interrupted the Liberal program, the streets of Salt Lake would be "seen running down with blood."

As the time drew near for the intended precipitation of the

conflict the hot-headed Maxwell, who was expecting at that very time to be appointed U. S. District Attorney for Utah, thought he saw an opportunity to begin the bloody work.* The anti-Mormon organ, the *Tribune*, had used grossly offensive language in reporting the proceedings of the Salt Lake City Council, and had been expelled from the meetings of that body upon refusing to make an apology. Thereupon the paper proclaimed "Brigham on the War Path," and the Associated Press agent sent out another batch of sensational falsehoods. The "G. L. U." offered a hundred armed men to force the Council into submission. This was ten days prior to the election. The *Tribune* reporter thus details, in Tullidge's "History of Salt Lake City," these proceedings and what followed:

I, Joseph Salisbury, late associate editor of the Salt Lake *Tribune*, make the following statement, to wit:

That on the evening of the 26th of July, 1872, I attended a meeting of the City Council, held in the council chamber, City Hall, Salt Lake City, and made a report of its proceedings.

That on the 30th instant I attended again, when that honorable body, taking exceptions to my previous report, demanded of me a public recantation on pain of expulsion. This I refused, when the vote of the Council was passed to that effect.

That I was afterwards directed by Mr. Fred. T. Perris, manager of the paper, to attend to the next regular meeting of the Council, and report as usual. I said, in answer, that I presumed the Council would adopt parliamentary rules and close its doors; whereupon the manager informed me that General George R. Maxwell had promised to be there with one hundred men, from the "G. L. U's." and other secret orders, to force an entrance and insist on my taking the minutes.

That on the day previous to the meeting, I was in the editor's office writing, when General Maxwell came in and asked me if I was ready to go to the Council the following evening. I replied, "I shall go, anyhow." He intimated that he was ready, and the "boys" would be there.

That I understood the programme to be that, if any hostile demonstrations were made by the Mayor and Council, each of them would be immediately covered by a pair of pistols, in the hands of the hundred men present.

* In the prosecution of Deputy Marshal Gilson, charged with compelling John Thomas, under threat of death, to sign an affidavit alleging the commission of crime—the Dr. Robinson murder—upon certain parties, General Maxwell, under oath, in reply to the question, "Did you state that you were to be Prosecuting Attorney in a few days?" said, "I did, sir, and should have been if the Englebrecht decision had not been given, if General Grant knows what he is about. I do not know but I shall be yet."

And furthermore, that, if Brigham Young was present, he would be a special mark. That, for some reason, the project was abandoned.

That myself, accompanied by Mr. F. T. Perris and Mr. Abrahams, went to said meeting, when the motion of the preceding Council was confirmed and the *Tribune* again expelled.

General Maxwell and his one hundred men failed to appear because his confreres decided that the occasion was inopportune. Had action been taken in the manner proposed it would not have been possible to place the blame on the municipal council sitting in its own chamber in the City Hall, and the perpetrators of the outrage would have been denounced by the whole country.* Nothing would have been less suited to the purpose of the anti-Mormon leaders. They wished affairs so arranged that when an outbreak should occur it would be under circumstances where the whole responsibility could be thrown upon the Mormons, and the country would say that they were rightly served. The expulsion of a libelous newspaper did not afford a sufficient excuse. Hence, City Marshal McAllister, acting under instructions from Mayor Wells, was not interfered with by General Maxwell and his "G. L. U's." when he peacefully escorted the protesting *Tribune* manager, local editor and foreman from the Council chamber to the exterior of the City Hall.

Eight days later, however,—Saturday evening, August 5th—the conspirators were prepared for their *enleute*. The occasion was a public meeting called by the Liberal leaders just prior to the election. A stand for speakers was erected on the sidewalk in front of the Salt Lake House, and by 8 o'clock on the evening named their placards announcing "a mass meeting of the citizens" had brought together a large audience. The meeting was called ostensibly to

* Mr. Tullidge states his position in relation to the circumstance as follows: "Learning of this design, I had resolved that if the hundred men, or any considerable number, attempted to move towards the City Hall in parties, I would, in time to prevent the risk of human life, make a statement of the facts to the Mayor. As it was I asked Mr. Ferris—the *Tribune* manager—to let me go to the Council in behalf of the paper, but the permission was refused. The reason was that it was thought the City Council, believing in my truthfulness and justice, would allow me to remain, as a member of the press, notwithstanding the expulsion of our paper."

ratify the Liberal nomination of General Maxwell as the party candidate for Delegate to Congress; but the intensely vindictive abuse heaped by the speakers upon the Mormon people clearly revealed a desire to provoke the latter to violent retaliation. Excitement and indignation were rife among the multitude, who greeted the epithets applied to them—such as “dupes,” “tools of priestcraft,” “serfs,” “geese,” “thieves,” “liars,” “murderers,” “traitors,” etc., with jeers and hisses. The crowd was in an uproar, and it looked as if a few of the more impulsive among them might answer the accusations with blows. We will give Mr. Tullidge’s testimony of what occurred at this particular moment:

Now came business for the “G. L. U’s.” They sprang to the front. They were headed by ex-Marshal Orr.

“Follow me, G. L. U’s!” he cried to his armed troop.

They dashed after him, revolvers in hand, and formed a half circle in front of the stand. Flourishing their weapons, they awed back the people, each waiting eagerly for the command to fire into the crowd.

For the anxious space of five minutes, it was almost certain that Judge Haydon’s prophecy would be fulfilled that night, and the streets of Salt Lake run with blood.

The writer saw their weapons brandished above the heads of their foremost men, gleaming in the flickering light of the lamps, and heard the excited cries of men eager for the word to fire.

The “G. L. U’s.” went to that meeting anxious for the work of revolution, as the more speedy way of “solving the Mormon problem;” and around the stand, where for a moment there seemed a favorable opportunity, this was strongly manifested.

The purpose of this sudden movement of the “G. L. U’s.” becomes more fully apparent on reading the following, from a letter published in the *Tribune* over the *nom de plume* “Honorius.” The correspondent was pleading for more perfect and powerful organization than that displayed by the Liberal secret society at the meeting, and said that if this was effected the leaders could “pass the word and five thousand miners will rally in a few hours to the defense of free speech and republican principles. Such an event would be greatly to be deplored, as it would be attended with fearful scenes and lawless violence. But, if nothing else will teach the poor willing tools of priestcraft to respect the rights of American citizens, one

dose of *Napoleon's treatment of the Paris mobs* will be a lasting and sufficient lesson."

The threatening attitude of the would-be revolutionists did not produce the intended effect. It had been anticipated by them that the police, seeing imminent danger of a conflict, would rush in to preserve the peace. Then the Mormon officers could have been butchered, and the plea set up in justification that they had met their fate while making an assault upon Federal officials in a political meeting. But the police prudently refrained from any movement other than to mingle quietly with the crowd. They thus prevented a terrible scene of bloodshed. The anti-Mormon leaders were out-generaled—their military *coup de maitre* had been wasted on the wind.

The meeting adjourned, and another was held the same night at the Liberal Institute, where the denunciation of and threats against the Mormons were continued. The chairman, A. S. Gould, stated that he had telegraphed the evening's occurrence "east and west, and it would soon be known in every village and hamlet in the land." Here is a sample telegram: "Salt Lake, August 3.—The Gentiles' meeting was finally broken up by the Mormon police, who were the principal actors. The Gentiles are ready for a fight." Commenting upon this, the *Deseret News*, whose urgent advice to the people was to "let their traducers severely alone as beneath contempt," said: "Had the leading and most honored citizens in any other community in the country, however, been as vilely abused in a mass meeting of its citizens as were President Young and others on Saturday evening by a 'ring' of men whose conspiracy against those same citizens' lives, honor and property had been so recently and disgracefully defeated, everybody knows that the press agent would have had no necessity to exaggerate or falsify his reports to have made them spicy."

The anti-Mormons were angered at the failure of their scheme to precipitate a riot, and one of their leaders declared: "They shall have another mass meeting, and if they repeat it, there shall be a

hundred coffins wanted next morning." The *Tribune* voiced similar sentiments, and on the morning of the election made a demand "for troops to be in attendance during the day or near the polls to ensure peace and enforce the rights of loyal citizens." These utterances were directed against the municipal authorities. No troops, however, were called out on that election day. None were needed. The citizens, Mormons and non-Mormons, with the exception of the coarser element which was directly manipulated by "the ring," unitedly gave their influence for peace, and the proceedings of the day were quiet and orderly.

It was nearly two months before the promised "mass meeting" took place. The following is the account given of it by Mr. Joseph Salisbury:*

The meeting was held in front of the Walker House on the evening of the 12th of October, 1872. As on the first occasion, I attended as reporter of the *Tribune*. During the day it was whispered around that an organization had been effected and that prominent men of the city authorities would be watched by armed members of the 'G. L. U.' I subsequently learned that these were under the control of the chairman, and that at his given signal the body were to move *en masse*.

I soon discovered that the programme was well arranged, and saw men known to me as 'G. L. U's,' moving in the crowd in twos with their hands upon their pistols, threatening those who dared utter the slightest murmur at the wanton denunciations against the Mormon leaders. It was at this meeting that the predictions uttered at the Liberal Institute, and by Mr. Baskin in the *Tribune* office were to have found fulfillment, but Associate Justice Strickland exposed the movement prematurely when, at the first sound of an opposing voice, he arose and proclaimed: "The first man who interrupts this meeting I will order shot! I mean what I say and say what I mean!"

The radicals were extremely dissatisfied at the indiscretion of their chairman, who should have given the signal at the opportune moment, instead of an untimely warning, in a clumsy paraphrase of General Dix's famous order—"shoot him on the spot!"

The friends of the associate justice explained that their chairman was "drunk," but among themselves they did not deny that there was a sober significance underlying his indiscretion.

I subsequently learned from conversation among the radicals, that, had there been any counter demonstration, the "G. L. U's," at a given signal, would have fallen back to the sidewalk in front of the Walker House, and that a volley from them, and others stationed in the windows above, would have fulfilled the prophecy of U. S. Attorney Baskin—"We'll have a hundred coffins at our next meeting!"

* Tullidge's "History of Salt Lake City."

With this fiasco the decadence of the "Gentile League of Utah" began, and its existence as an organization soon passed from a reality to a memory.

When the returns of the August election were canvassed, the result for Delegate to Congress was found to be: George Q. Cannon, 20,969, and George R. Maxwell, 1,942 votes. There were no other candidates. As stated in a previous chapter, General Maxwell had made an unsuccessful contest, at the last election, against Hon. William H. Hooper. But this was Mr. Cannon's first candidacy for the office. In July he was nominated by a convention of the People's Party, in which many of the members of the Republican Party, organized the preceding April, took part. This action by local Republicans was in a measure forced by the National Republican Convention, which had rejected Hons. George A. Smith and Frank Fuller, sent by the first Republican Party organization in the Territory, and had admitted as delegates A. S. Gould and O. J. Hollister, elected by Republican members of the Liberal Party, thus giving a check to the first named organization and its supporters. When the Democratic Convention met, the names of James P. Page, Esq., and Hon. George Q. Cannon were placed before it. The supporters of Mr. Cannon, who had not declared himself in favor of either of the national parties, but had endorsed the nominations of Greeley and Brown on the Presidential ticket, urged that the wisest course for local Democrats to pursue was to follow the example of the national convention of the party. This had endorsed the nominees of the Liberal Republican Convention at Cincinnati—Horace Greeley and B. Gratz Brown—as the best thing to do under the circumstances, it being impossible to elect a straight Democrat. It was claimed that, as a strict party nominee stood no chance of winning at that election in Utah, the Democrats could with consistency endorse Mr. Cannon, who, while recognized as independent in national politics, supported the nominees of the national Democratic Party. The balloting at the convention resulted in fifty votes being cast for Mr. Cannon and twenty-three for Mr. Page. The former was then unanimously declared the nominee of the party.

On the 10th of October, General Maxwell appeared before the Governor and Secretary of the Territory and protested against the issuance of the certificate of election to Mr. Cannon. He charged the latter with "disloyalty" and "polygamy," but as the Governor and Secretary had no legal discretion in the matter, but must issue the certificate to the person receiving the highest number of votes, Mr. Cannon obtained the document. He was also served by General Maxwell with a notice of contest.

The time for Mr. Cannon to take his seat was not until Congress met in December, 1873, but during the winter of 1872-3 he went to Washington and aided Captain Hooper in resisting proscriptive legislation toward the people of Utah. Delegate Hooper's term of office expired March 4th, 1873, and upon his return to Utah on the 15th of that month, the people gave him a hearty reception, many leading citizens, with bands of music, going by special train to meet and bid him welcome home. He had labored wisely and faithfully for the best interests of the Territory, and those who sought to push through Congress schemes inimical to his constituents had found in him a vigilant, determined and able antagonist. His industry and zeal, his genial manners and unobtrusive conduct, had gained him the credit of being one of the most indefatigable workers and pleasant gentlemen in Congress. The tact and aptitude for business which marked his career before his election, were made to do good service in the responsible position that he was placed in by the votes of the people. He was first elected Delegate from Utah in 1859, and had served five terms in that capacity. Previous to the nomination of a candidate by the People's Party in 1872, Captain Hooper notified his friends that he did not wish to be named at that time for the position, as he felt that his labors had been so continuous and arduous that he needed rest.

At the opening of the Forty-third Congress, December 1st, 1873, Hon. George Q. Cannon presented his certificate of election as Delegate from Utah, and asked to be sworn in. General Maxwell was there, and induced Mr. Merriam, of New York, to object, so that Mr.

Cannon had to stand aside until the Delegates from the other Territories had taken the oath of office. Mr. Merriam then offered a resolution reciting that Mr. Cannon had taken an oath inconsistent with citizenship and with his obligations as a Delegate, and had been and continued to be guilty of practices in violation and defiance of the laws, and referring to the Committee on Elections the question of his right to the seat. Mr. Cox, of New York, opposed the resolution as tending to establish a very dangerous precedent. Here was a *prima facie* case, with a regular certificate of election, and he moved that Mr. Cannon be sworn in. The certificate was read, whereupon prominent members of both parties supported Mr. Cannon, and Mr. Merriam's resolution being tabled with but one dissenting voice, the oath of office was administered to the Delegate from Utah. The contest was carried on by General Maxwell before the Committee on Elections, which decided, by unanimous vote, in favor of Mr. Cannon. A further effort was made to unseat him by an investigation of the charges made by Maxwell, but, as in the other case, this resulted adversely to the contestant.

As early as March 11th, 1872, President Grant, at the suggestion of Rev. J. P. Newman, the Washington director of the McKean crusade, had intimated to U. S. District Attorney Bates that his resignation would be acceptable. This was when General Maxwell expected to be the new incumbent of the public prosecutor's office. But Mr. Bates had received an inkling that the decision of the Supreme Court in the Englebrecht case would be adverse to McKean's "judicial mission," and so decided to hold on to his position. It was not, therefore, until Congress reassembled that a change was made. On the 10th of December, the President superseded Mr. Bates by the appointment of Mr. William Carey, of Illinois, as District Attorney for Utah. Mr. Bates had not shown a sufficiently antagonistic spirit toward the Mormons to suit the President's advisers in Utah affairs. Mr. Carey, however, assumed the role of a crusader, and spent a great portion of his time endeavoring to secure adverse Congressional action toward the Mormons.

When Congress met, the President also sent in the name of George R. Maxwell to be U. S. Marshal of Utah, in place of M. T. Patrick, and on the 8th of that month Maxwell was confirmed by the Senate.

Other official changes were made during that winter—1872-3; William M. Mitchell, of Michigan, being appointed in January, and Philip H. Emerson, of the same State, in March, to be Associate Justices of the Supreme Court of Utah, *vice* Judges Strickland and Hawley. In the latter part of March the name of Jacob S. Boreman replaced that of Judge Mitchell, and in April Judges Emerson and Boreman assumed their official duties. Judge Emerson gained the confidence and good will of the people by his able and impartial administration of the law. Judge Boreman descended to the tactics of and complete affiliation with the anti-Mormon ring. Like Judge McKean he was a pious Methodist and a Mormon-hater, though he lacked both the dignity and the ability of the Chief Justice. A Washington dispatch of February 14th announced the appointment of W. H. Clagett, the outgoing Delegate from Montana, as Governor of this Territory, in lieu of George L. Woods. Clagett had shown himself a most unscrupulous and mendacious enemy to the Mormons. The dispatch in relation to the governorship, however, proved to be based on a promise of the President that if certain legislation was enacted by Congress, Clagett would get the place. As the proposed measures did not become law, he failed to secure the position, and Governor Woods was left undisturbed until December 28th, 1874, when the President appointed Hon. Samuel B. Axtell, of California, to succeed him. Seven months prior to the change of Governor, McKean had been re-appointed, and on June 2nd was confirmed by the Senate and began his second term as Chief Justice of Utah. Governor Axtell was a kindly, urbane gentleman, who mingled freely with the people, and made no distinction of classes. This course evoked the hatred and opposition of "the ring," which soon succeeded in effecting his removal.

The Forty-second and Forty-third Congresses were notable for the amount of legislation proposed and considered for Utah, most

of which was directly inspired by the McKean cabal. While they had their own way in overriding the law at the expense of the Mormons, but little was done by them in the direction of influencing Congress; but when the court of last resort called a halt in their illegal proceedings, a rush was made for legislation to suit their schemes. On the 1st of April, 1872, when it had become fully understood that the forthcoming decision of the Supreme tribunal would be adverse to the procedure of the Utah courts, Senator D. W. Voorhees introduced a bill providing in the main for following the McKean procedure in future. The Chief Justice himself went before the Senate Judiciary Committee and urged the adoption of this measure. Two days later, Senator William A. Wheeler presented another bill disfranchising the women of Utah, and giving the Governor control of all elections; and on the 29th, Senator Cragin reported still another, to the same general effect as the Voorhees bill. Mr. Clagett introduced into the House of Representatives a measure a little more stringent in some respects than the others. He had, on April 18th, during a debate on a bill "to incorporate the Great Salt Lake and Colorado Railway," which was intended to run from Great Salt Lake to the mouth of the Colorado River, indulged in a phillipic against the Mormons, who, he said, had monopolized all the land and water in the Territory, to the exclusion of the Gentiles. He had been to Utah in 1866, and stated as his reason for not remaining in the Territory: "I came to the conclusion that Utah was no place for me to stay, or any other person who had a family to rear, and therefore put some value on his life, and I went on my way to Montana." He also alleged that President Young had "raised the British flag in Salt Lake City," and it "would have been there today if Brigham Young had had his will." Delegate Hooper replied to this tirade in a speech in which he pronounced Clagett's "statement to be untrue from beginning to end." Besides the anti-Mormon measures named, Representative James G. Blair, of Missouri, introduced a bill "to legalize polygamous marriages in the Territory of Utah, and to dismiss prosecutions in said Territory on account of

such marriages." On February 17th, he made a strong argument in the House in support of his proposition.* None of these measures were disposed of at that time, but were continued over by adjournment until Congress reconvened the next winter.

When the National Legislature resumed its labors in December, 1872, and the House was considering a bill for the admission of Colorado into the Union, Delegate Hooper, on December 19th, proposed an amendment, admitting Utah as the State of Deseret. This gave Delegate Clagett an opportunity, which he did not fail to grasp, of making another vituperative assault on the people of this Territory, in which he declared that "freedom of speech, of the press, and of public worship are unknown in Utah." In fact his utterances were so outrageous that in February a request was made of Representative Sargent, of California, in behalf of many prominent Gentiles in Utah, to enter an emphatic denial of the Montana Delegate's assertions.

On the 21st of December it was announced from Washington that President Grant had "expressed his determination to put an end to the Mormon institution," and on January 17th, 1873, the Logan anti-Mormon bill, which it was hoped would inaugurate the "ending" process, was introduced. Its purpose was to give the Utah "ring" all the power that they had sought to usurp under the McKean rulings, and also to open to them the Territorial treasury. On the 4th of February the Executive called on the Senate and House Judiciary committees and urged immediate action on the Utah bill, and, it is said, gave it as his opinion that if the proposed enactment or something of a similar nature was not passed he would "have to send United States troops to that Territory in less than two months, to aid in the enforcement of the laws." That serious action was contemplated may be seen by the following press dispatch sent out from Washington on February 7th:

* The Mormon women assembled *en masse* in various parts of Utah, and passed resolutions endorsing Mr. Blair's course and thanking him for his courageous stand in behalf of the rights of their people.

“The President has ordered all the troops on duty in the Southern States, except small detachments at forts on the sea coast, to prepare for a movement towards the stations on the plains, within a comparatively short distance from Salt Lake City. This is done to secure enforcement of the laws, especially what is known as the Logan bill, now pending in Congress.”

The President had not learned, and probably never suspected, that he was being deceived by Newman and his anti-Mormon coadjutors in Washington and Utah, but fancied that the country “had been playing with Brigham Young, and it was time to stop.” The *New York World* stated, on February 9th, that on the day preceding, the Chief Executive “expressed himself strongly in favor of the enforcement of the laws in Utah, if it takes the whole available military force to sustain it;” also that “General Sheridan had been summoned to give his advice, from personal observations, of the best localities, within a day’s railroad distance from Salt Lake City, for the temporary encampment of troops.” The truth was that almost the whole impediment to the enforcement of the laws in Utah was the corps of officials sent out by President Grant himself. The Territory had no more need of Federal troops than did the halls of Congress at this identical period.

On the 3rd of February Hon. Samuel A. Merritt, delegate from Idaho, but who had become a resident of Salt Lake City, introduced another anti-Mormon bill into the House. Two days before, in an interview with President Grant, he informed the latter that the Utah statutes “discriminate with great severity against those who do not belong to Brigham Young’s church, so that it amounts to virtual exclusion.” The Merritt bill was radically un-American in its provisions. In addition to those of the Logan bill, it gave the appointment of probate judges, sheriffs, justices of the peace, judges of election, and other local officers, into the hands of the Governor; repealed the act incorporating the Church of Jesus Christ of Latter-day Saints, the Territorial election law, the law giving married women the power to hold property in their own right, the statute by

which the elective franchise was conferred on the women, and a number of other Territorial enactments.

On February 6th, Senator Frelinghuysen introduced a measure similar in its provisions to the Merritt bill. It was reported favorably by the Senate committee on February 17th, and after some amending passed the upper branch of Congress on the 25th. In the meantime petitions for and against the bill were presented. Delegate W. H. Hooper, with Hons. George Q. Cannon and Thomas Fitch,* worked energetically and ceaselessly to defeat such legislation, and the anti-Mormons, aided by the full power of the Administration, made a strong and determined effort in its support. Merritt and Clagett had another interview with the President, urging a special message to Congress, and on February 14th it came. It called attention to the condition of affairs in this Territory and to "the dangers likely to arise" from a conflict between the Federal and Territorial authorities. It advocated special legislation providing for the selection of grand and petit jurors by persons entirely independent of those who were "determined not to enforce any act of Congress obnoxious to them," and also the taking from the probate courts of "any power to interfere with or impede the action of the courts held by the United States Judges." The President expressed the apprehension that unless Congress took immediate steps in the premises "turbulence and disorder would follow," rendering "military interference"—which he should "greatly deprecate"—"a necessary result."

There was a division of sentiment in Congress regarding the adoption of any extreme measure, though comparatively few Congressmen had the moral courage to raise their voices against it. Those who felt that it was unwise to act hastily in the matter of special legislation on Utah affairs suggested the enactment of "a law providing for the appointment by the President of a commission of

* Mr. Fitch moved from Utah to Arizona. He subsequently took up his abode in California, and more recently in New York City.

three or five gentlemen of learning and prominence, not actually engaged in the political discussion of the day, to go to Utah and make a thorough investigation of the whole Mormon question and report their conclusions to the next Congress." It was proposed that the commission "visit all parts of the Territory and report upon its laws, the resources of the people, their industry, educational advantages and promises, and all matters necessary to enable Congress to form an unprejudiced view of this great problem." Before these wise suggestions could receive deliberate consideration, the friends of the Frelinghuysen bill pressed it to a vote, and it passed the Senate.

On the 27th of February, Messrs. Merritt and Clagett endeavored to have the bill taken up by the House, but they were unsuccessful. On March 1st the attempt was renewed, but a recess was taken and the bill went over to the 3rd, when its consideration seemed certain. But through the crowding in of resolutions and motions by members who wished to have action taken on their special business before adjournment, the advocates of the Frelinghuysen bill, clamorous as they were, failed to secure recognition from the speaker. On the morning of March 4th it came up in regular order, but Mr. Sargent, of California, objected to the consideration of a bill of such importance when there was no quorum present. The fight was over. Noon came, and with it adjournment, and the Forty-second Congress was no more.

But the effort for anti-Mormon legislation did not cease, though much of its vigor was gone. In his message to the Forty-third Congress, December 1st, 1873, President Grant said:

"Affairs in Utah require your early and special attention. The Supreme Court of the United States, in the case of *Clinton vs. Englebrecht*, decided that the U. S. Marshal of the Territory could not lawfully summon jurors for the District Courts, and those courts held that the Territorial Marshal illegally performed that duty, because he is elected by the Legislative Assembly and not appointed as provided for in the act organizing the Territory. All proceedings at law are

practically abolished by these decisions, and there have been few or no jury trials in the District Courts of that Territory since the last session of Congress. Property is left without protection by the courts, and crimes go unpunished. To prevent anarchy there it is absolutely necessary that Congress should provide the courts with some mode of obtaining jurors, and I recommend legislation to that end, and also that the Probate Courts of the Territory, which now assume to issue writs of injunction and *habeas corpus*, and to try criminal cases and questions as to land titles, be denied all jurisdiction not possessed ordinarily by courts of that description."

These recommendations were a comparatively insignificant part of the legislation proposed at the previous session of Congress, and which, if it had been secured, would have placed the lives, liberty and property of the majority of Utah's citizens at the disposal of a hostile minority. Nevertheless, the utterances of the Chief Executive gave fresh courage to the crusaders, and several anti-Mormon measures were at once introduced in the Senate and the House. All, however, with one exception, failed to pass.

On the 5th of January, 1874, Mr. Poland, of Vermont, introduced in the House a bill "relative to courts and judicial offices in the Territory of Utah." This was the nearest attempt to conform to the recommendations in the President's message, and as its provisions discriminated against the majority of the citizens of the Territory in various respects, it was vigorously opposed. The Legislature of Utah was now in session, and endeavored to ward off the proposed legislation by Congress. With this purpose in view, a memorial was unanimously adopted, denying the accusations of disloyalty made against the majority of the people of Utah and earnestly soliciting the sending of a commission of investigation, and the suspension, pending its labors and until it had rendered its report, of all action in the nature of special legislation toward this Territory.

This memorial was presented to Governor Woods for his signature, but on February 4th he returned it with a caustic veto

message, accusing the legislators of the Territory of enacting improper laws. Said he: "To ask, or expect me to join you in condemning my own official acts, pronouncing them 'absolutely untrue,' and made 'with malicious intent,' is a sad commentary upon the judgment and good taste of those who ask it. That I cannot do so is certain."

The memorial, however, came before Congress, being presented by Delegate Cannon on the 16th of February. It doubtless had a measure of effect in the direction intended by the memorialists, although the House Judiciary Committee, on February 21st, expressed its opposition to the commission, and agreed to report the Poland bill. On March 2nd, Delegate Cannon introduced into the House a bill for an enabling act for the people of Utah to frame a State government.*

Matters went along till May, with efforts for and against Utah, until, early in that month, Mr. Poland withdrew his proposed measure and presented one still further modified. This was amended and became a law on the 23rd of June. It repealed the laws of Utah respecting the Territorial Marshal and Attorney-General, and placed the powers and duties of those officers upon the United States Marshal and District Attorney. Certain judgments and decrees of the probate courts—those already executed, and those rendered, the time to appeal from which had expired—were confirmed, but the jurisdiction of such courts was thenceforth to be limited to the settlement of estates of decedents and to matters of guardianship and divorce. The jurisdiction of justices' of the peace was slightly extended, and the appointment, by the Territorial Supreme Court, of United States Commissioners, authorized. Certain fees to Federal officials were made payable out of the Territorial treasury. Appeals were allowed to the United States Supreme Court in bigamy and

* This bill failed to pass, as did also one of a similar nature introduced into the House of Representatives on December 21st, 1875. The last mentioned was supported by a petition from the ladies of Utah. This bore 23,626 signatures, and in addition to the request that Utah be given statehood asked that Congress repeal the anti-polygamy law.

polygamy trials, as well as in cases involving capital punishment, and the drawing of grand and petit jurors was placed in the hands of the Probate Judge and the Clerk of the District Court. This gave non-Mormons equal representation on the jury list with the Mormons, though the latter were greatly in the majority in the Territory. The Poland law met all the recommendations in the President's message, and in probably as acceptable a manner to the people of Utah as was possible under the circumstances. As a statute which permits discrimination against one class of citizens it cannot, of course, be commended. Yet its enactment in its modified form was virtually a defeat of the crusading clique in Utah. Their mountain had labored mightily in parturition for more than two years, and had brought forth a very small rodent.

CHAPTER XXVI.

1874-1876.

MORMON PATIENCE AND PATRIOTISM—LIBERAL PARTY TACTICS—MARSHAL MAXWELL INVOKES "THE BAYONET LAW" TO CONTROL UTAH ELECTIONS—TROUBLE AT THE POLLS—THE SANDY DISTURBANCE—RIOT AT SALT LAKE CITY—MAYOR WELLS ASSAULTED—THE POLICE CHARGE THE MOB—ARRESTS AND COUNTER-ARRESTS—TOOELE COUNTY CAPTURED BY THE LIBERALS—GOVERNOR WOODS AND JUDGE MCKEAN ASSIST IN THE FRAUD—THE LEGISLATURE LAYS BARE THE SHAMEFUL FACTS.

A STRIKING feature of the period of the McKean crusade was the remarkable power of self-control exhibited by the Mormon people. The policy of their assailants, at all times a cause of anxiety and distress, was frequently exasperating; yet it utterly failed to provoke the Saints into a violent assertion of their rights. They felt that they were attacked because of their religion, but they also believed that the basic principles of the American Government were divinely inspired, and they were determined to be true to both. Hence their patriotic resolve that the struggle forced upon them should be devoid of lawless demonstration on their part, and be wholly within the pale of the Constitution.

With the full understanding that they were in no danger, of bodily harm or from legal prosecution, it is not to be wondered at that the worst elements of the Liberal Party were ripe for the lawlessness displayed by them in connection with the general election of 1874. Whether it was the intimidation of voters and an attempt to take possession of polling places by force, or the crowding in of illegal votes as a means to obtain office, it is evident that they expected support from the Federal executive and judicial officers of the Territory. In this they were not disappointed.

For the municipal election at Salt Lake City in February of that year four tickets were formulated, though only two were used at the

polls. The first two prepared were the nominations of the People's and Liberal parties, the former naming Mayor Wells as a candidate for re-election, and the latter placing Joseph R. Walker at the head of their ticket. A third set of candidates took the title of "Working People's ticket." The Liberals realized that there was no possibility of electing their men, but the party managers, upon seeing the third ticket in the field, decided upon a plan by which they hoped to defeat some of the regular People's nominees. They accordingly intimated to their following, at a meeting held on the Saturday evening before election, that there would probably be a material change in the party ticket. This suggestion was accepted with good grace, for a characteristic of the Liberals—who so persistently and censoriously accuse others of precisely the same thing—is unquestioning obedience to their party leaders.

Early on the day of election the plan conceived by the Liberal managers was put into operation. A ticket bearing the heading, "The People's Ticket," and in size, style of type, and color of paper, an exact imitation of that being voted by the People's Party electors, was circulated at the polling places. It was mistaken and voted, in many instances, for the regular People's ticket, by those who did not take the care to glance at more than the heading. Its candidate for Mayor, however, was William Jennings. Two other names were taken from the Working People's ticket, and five from among the regular People's nominees. The rest were well known Mormons, except the candidate for City Marshal, who was an ex-Mormon. Simultaneously with the appearance of this fourth ticket came posters bearing an announcement signed by all the regular Liberal candidates. These declined election, but called upon their supporters to vote the latest ticket issued—that headed by William Jennings for Mayor. By this move but two sets of candidates were left, both running on tickets headed alike—the regular People's candidates, all Mormons, and the opposition, all Mormons but one. The nature of the contest caused considerable bustle and some excitement. The election was the liveliest that Salt Lake had seen, yet everything was

conducted with good feeling and in an orderly manner, the city's peace being wholly undisturbed. That great interest was taken in the proceedings is shown by the fact that the largest vote that had ever been polled in the city or that was destined to be cast here for fifteen years afterward, was recorded on that day. Mayor Wells and those on his ticket received 3,948 votes, while the highest number of ballots for an opposition candidate was 1,677.

Although the dominant party had gained a decisive victory over the combination, the result of the election was quite encouraging to the Liberals. They now anticipated that they could secure a good following at Salt Lake City, and, aided by other means at their command, make a respectable showing of votes at the August election, with which to contest the seat of the Utah delegate. The Liberals, however, circumvented their own ends by anti-Mormon efforts with the National Legislature. In response to the persistent clamor of "the ring" for measures more stringent against the majority in Utah, the Poland bill was passed by Congress and became a law on June 23rd of this year. For its discrimination against the Mormon people, it was looked upon and denounced by them as unjust legislation. Their unanimity and depth of sentiment upon the point was expressed at the polls six weeks after the measure received the signature of President Grant. There its immediate effect was the solidifying of the entire Mormon vote. The whole opposition to the regular People's Party ticket was less than two-thirds of what it had been at the municipal election six months before.

The officers voted for on the 3rd of August, 1874, were Delegate to Congress, Representatives to the Legislature, and County officials. For Delegate, the People renominated Hon. George Q. Cannon. The Liberal convention first named Henry W. Lawrence, but that gentleman was induced to decline the nomination and R. N. Baskin was substituted. It was the design that he should contest Mr. Cannon's right to a seat as delegate, and also endeavor to secure further legislation against the Mormons. For the latter purpose he was regarded as eminently more suitable than Mr. Lawrence.

In the campaign preceding the election, considerable acrimony was manifested. Governor Woods and other Federal officials took active part, and in their public speeches vehemently denounced the Mormon Church and its leaders. An idea of the position assumed by the Liberals may be obtained from the following extract from their party platform at that time:

In Ulysses S. Grant, President of the United States, and his Cabinet we recognize friends of free thought, free speech, the supremacy of the laws, and determinable enemies of theocratic rule and a treasonable Priesthood in Utah.

Although the Poland bill as passed by the late Congress is not sufficiently broad in its provisions to correct many of the evils originally designed by the bill, yet we gladly accept the imperfect provisions as a guarantee that Congress intends to perfect its work, thereby giving protection to the weak, punish the wrong, and assert the due execution of the laws of the United States in this Territory, for all of which the American citizens of Utah feel gratefully thankful.

When it is understood that the Poland bill, as first introduced in Congress, provided for the disfranchisement of Mormons because of their religious belief, the reference to its "original design" can be appreciated. That the Mormons were not inactive in the political contest may be shown by the following arraignment of the Liberal Party, promulgated on the eve of the election:

They do not care how votes are obtained, so that they get into office.

They constitute perhaps a tenth of the people, and lust to rule over the whole, locally as well as federally.

U. S. officials among them neglect their official duties to go about ranting and wire-pulling and intriguing for local office, and run away to Washington half their time to procure special proscriptive legislation against the people of this Territory.

They are constantly working to induce Congress to legislate inimically to this community.

They establish illegal courts to try and condemn the people.

They counsel insult and violence to other citizens.

They defy and strive to break down local laws and ordinances, and unmistakably sympathize with, screen, and assist the open violators thereof.

They have proven themselves the friends of drunkards, peace-breakers, prostitutes, thieves and murderers.

They are continually concocting the vilest lies and slanders concerning deserving, honorable, and respected members of the community.

They vilify the wives, sisters and daughters of the best citizens.

They give every encouragement to men of the baser sort in their lawless assaults and depredations.

They have shown themselves the deadly enemies of the peace and good order of the community.

They endeavor to stir up strife between the civil and military authorities.

They daily utter, concerning good and prominent citizens, lies too base and black to be mentioned.

They designedly misrepresent the religious belief and practices of the people.

They try all in their power to get at the people's taxes.

They have succeeded in procuring a law to pay themselves enormous fees, etc., out of the people's local taxes.

They have procured a law to deprive the people of power and heap it upon themselves.

They have had Territorial, county and district officials supplanted by federal officials.

They try to have nine-tenths of the people disfranchised, and their property confiscated, on account of the religious belief of those citizens.

They try to exclude nine-tenths of the best citizens from the jury box because of the religious belief of those citizens.

They try to have nine-tenths of the best citizens subject to be tried only by a jury of the bitter enemies of those citizens.

They deny naturalization to aliens because of the religious belief of those aliens.

They try to deprive women of the right of suffrage, and of the right of honorable marriage, but favor them if they can be induced to become "mistresses" or public prostitutes.

They try to break up long-established families, imprison the husbands and fathers thereof, and divide their property among lawyers chiefly.

They take away jurisdiction from local courts and give it to the federal courts.

They seek to have local laws annulled or superseded by special federal laws.

They try to have local city and other charters annulled, that they may heap the more absolute power upon themselves.

In every way they can think of, they seek to insult, calumniate, vilify, and abuse the citizens, men, women, and children, rob them of their constitutional rights and privileges, spend their taxes for them, and reduce them to the condition of abject serfs, with no rights which their demagoguish Liberal tyrants are bound to respect.

As the day for the election drew near, General Maxwell, the United States Marshal, determined to try the virtue of a statute made for the "reconstruction" period in the South. It was the election "bayonet law," subsequently declared unconstitutional by the Supreme Court of the United States. In his incandescent zeal, however, he overlooked or ignored several essential preliminaries required by the statute, so that his attempt to manipulate Utah

election affairs was violative of instead of harmonious with the law which he sought to invoke. Rumors, probably growing out of the covertly expressed intention of the Marshal, were rife at Salt Lake, alleging a design to sieze ballot boxes. In consequence of this, the municipal authorities augmented the police force for the preservation of order.

The first news of an actual disturbance was from Sandy, Salt Lake County, on the morning of election day. A People's Party man named Alsop was challenged, and the challenge overruled by the judges of election, but when he attempted to deposit his vote, several Liberal roughs made a dash for the ballot box. This, however, was protected by the judges, but a fight ensued in which the constable of the precinct—John W. Sharp—was very roughly handled, being knocked down and jumped upon by his assailants. Although balloting was resumed, disorder prevailed to a greater or less extent during the day, its purpose and effect being the intimidation of voters, numbers of whom, especially ladies, were restrained by fear of violence or insult from going near the polls.

At Salt Lake City the efforts of the U. S. Marshal, to control the election, by excluding the city and county guardians of the peace, were virtually confined to the Fifth Precinct, where the Liberal strength was concentrated. The polling place was at the City Hall, at which point unpleasantness resulting from conflict of authority arose early in the day. The police endeavored to preserve order, and the deputy marshals assumed to do the same, but the opposite methods of effecting this purpose soon brought the two parties into contact, with the result that arrests and counter-arrests were frequent, those taken into custody, both police and marshals, being quickly bailed out by their respective partizans. Chief of Police Burt asked Marshal Maxwell to instruct his deputies to act in harmony with the police and thus suppress rather than promote disorder, but the bibulous propensities of the Marshal had been indulged to the extent that he was in too belligerent a mood to grant the reasonable request. Around the doors to the polling booth the

wrangle grew apace and the excitement was fast and furious, yet by their tact and firmness the municipal conservators of the peace had for hours kept the anger of the noisy crowd below the exploding point.

Toward evening, however, the Liberal mob—for such was now the complexion of those engaged in the tumultuous proceedings—discovered a slight opportunity for an outburst. Mayor Wells came along the street and was in the act of entering the City Hall when Deputy U. S. Marshal, J. M. Orr, who was under the influence of liquor, seized and pulled him off the doorstep into the crowd. General Wells freed himself from the deputy, and was set upon by a number of the latter's associates. Cries of "Shoot him! Shoot him!" went up from the mob, one of whom was seen pushing toward the Mayor with a drawn knife. While this scene was being enacted the police were not idle. In fact it was their presence of mind and brave promptitude that averted a bloody tragedy; for there could be no doubt of the desire of the mob to assassinate General Wells and possibly others. The moment the Mayor was drawn into the crowd ten or twelve resolute policemen sprang forward to his relief, dealing telling blows upon those who sought to impede their progress. The Mayor was rescued, though his clothing was badly torn in the melee, which lasted scarcely sixty seconds. In the crowd were several bruised and bleeding heads, the severest wound being received by B. F. Whittemore, who dropped like a log under a blow from an officer's club; but none of the injuries inflicted were dangerous or of lasting effect. The doors to the City Hall were immediately closed, and the Mayor re-appeared on the balcony above and commanded the crowd to disperse.

A few minutes later, Marshal Maxwell, who had been apprised of the occurrence, appeared with several deputies and served warrants of arrest on Mayor Wells and others. The crowd followed some of the prisoners towards the Marshal's office, making noisy threats on the way, and roughly jostling Police Justice Clinton, against whom, for obvious reasons, the disorderly element had a

standing grudge. But finally they dispersed. The city officers were released on bail, and their prosecution was subsequently abandoned.* In a preliminary hearing before U. S. Commissioner Toohy, of the cases of Mayor Wells and Chief of Police Burt, the charges against them were dismissed, the Commissioner finding that their conduct in the affair was in pursuance of their official duties. This was virtually a judicial condemnation, from his own side, of Maxwell's unwarrantable interference at the election. †

Turning now to Tooele County. The condition there in 1874 gave an opportunity for successful fraud not to be neglected by the Liberal Party managers. As previously shown, the discovery of gold and silver in the Oquirrh Mountains had led to the location and settlement of the mining town of Stockton in 1864, and within the succeeding ten years the development of rich ore deposits in that vicinity brought Ophir, Jacob City and other mining camps into existence. Their growth, however, had been insignificant until within a recent period, beginning with the advent of the railway. The population in these towns, like that of every new district in the West where the precious metals were to be obtained, was fluctuating, and to a large extent composed of irresponsible and unscrupulous persons with no fixed place of abode. Their uncertain and reckless habits rendered them capable of being used in the promotion of lawlessness whenever their passions and prejudices might be gratified thereby. Contiguous to these towns in Tooele was the mining camp of Bingham, in Salt Lake County, and from among its inhabitants the Liberal leaders had little or no difficulty in importing temporary "residents" to a desired locality for the purpose of manipulating an election by illegal votes.

* The case of N. V. Jones was an exception. He was indicted on a charge of assault with intent to murder B. F. Whittemore. He was tried in the Third District Court and acquitted.

† Of the total number of votes cast in the Territory Mr. Cannon received 22,260 and Mr. Baskin 4,513 for Delegate to Congress. Mr. Baskin made a contest before the House of Representatives, but failed in his efforts to unseat Mr. Cannon.

At the time of which we write there was no registration law in Utah. The qualification of electors, in addition to citizenship, was that they had resided in the Territory six months preceding the election. They were required to be taxpayers, as this fact was the proof of residence; and electors could vote only in the precinct in which they resided. Non-taxpayers were thus excluded by law from exercising the franchise. By this arrangement the name of every qualified voter was on the tax list.

An aggressive campaign by the Tooele County Liberals, in which Governor Woods and other Federal officials participated, aroused the party's supporters to action; while quieter but not less effective work brought out the entire strength of the People's Party; so that on the 3rd of August, of the year named, an unusually heavy vote was polled, even by those entitled to the franchise. But when the election returns showed that over twenty-two hundred ballots had been deposited in the boxes, while there were less than fifteen hundred taxpayers in the county, it was at once apparent that a great fraud had been committed. There was no doubt, either, as to which political organization had availed itself of unlawful means in furtherance of its purposes. In the Liberal precinct of Jacob City alone that party's candidates received more than five hundred votes in excess of the whole number of qualified electors in the precinct.

The People's Party managers and candidates seemed for a time almost dumbfounded at the unblushing effrontery of this outrageous imposition. The County Clerk, who was a Mormon, certified the returns to the Secretary of the Territory as showing nearly twelve hundred votes for each of the Liberals, and slightly over a thousand votes for each name on the People's ticket. Within the legal limit of ten days, however, a notice of contest was filed with the County Court, as then required by law.

Immediately upon receipt of the County Clerk's certificate by the Secretary of the Territory, Governor Woods issued to Lawrence A. Brown a commission as Probate Judge of Tooele County, and subsequently commissions were given to the other Liberal candi-

dates. Mr. Brown tendered his bond as Probate Judge to County Treasurer Atkin on August 17th, but the latter refused to accept it because of the pending contest. A writ of alternative mandamus was issued by Judge McKean,—Tooele County being a portion of the Third Judicial District,—requiring the Treasurer to receive the bond presented or to show legal cause for his refusal. The matter came before the District Court, which, on August 28th, gave judgment for Brown, with four hundred dollars damages and costs. The court held that the Governor's commission was the highest evidence of election, and that it could not go behind the County Clerk's certificate to ascertain the true status of affairs. It also refused a stay of proceedings pending an appeal to the Supreme Court of the Territory. By this ruling Judge McKean set aside the law providing for the contest of an election for a county office.

Hon. John Rowberry held the position of Probate Judge of Tooele County at the time of the election, and was the People's candidate for the ensuing term. On September 7th, Mr. Brown presented his commission as judge to Mr. Rowberry, at the court house in Tooele City, and demanded immediate possession of the office, but was met by a firm declination. The occasion was one of absorbing and even intense interest, because of the possible danger of bloodshed. The County Court was in session, and U. S. Marshal Maxwell had entered with about thirty armed followers, some of whom had been previously heard to declare that they would that day "have the seal and records, and hold court, or would gut the town." Maxwell threatened to arrest Judge Rowberry, and the latter refused to recede from his position except under an order of court. Brown applied to the remaining members of the County Court for recognition as Judge, but they replied that the contest now before them as a canvassing board must be determined, when they would recognize the person legally elected to the office. At this juncture E. F. Martin, Liberal, presented his bond and commission as County Recorder, and attention was turned to that. Shortly afterward, Richard Warburton offered his bond for the same office, but no commission.

The court then set September 21st to hear the contest, and adjourned. While the session was in progress, Maxwell's revolver fell from his pocket to the floor. Upon the adjournment of court the Marshal stepped up to Judge Rowberry, and in the brusque manner for which he was so well known, remarked, "Judge, I expected you and me to have been in another world by this time, as my men intended to pick you the first, and I know that I was the target for your men."

Mr. Brown, after receiving his commission as Probate Judge, had appointed Maro J. Chamberlin as County Clerk, and on September 10th, accompanied by Deputy U. S. Marshals Smith and Kingsley, and provided with an order from Judge McKean to seize the County Clerk's office and the county records, seal and papers, Chamberlin left Salt Lake City for Tooele. At E. T. City, Mr. Warburton, County Clerk, was met, on the stage *en route* to Salt Lake. The deputies demanded that he return to Tooele with them, but he refused to do so. Next day Chamberlin, Smith and Kingsley took possession of the clerk's office. Smith and Chamberlin then returned to Salt Lake, leaving Kingsley in charge. He learned that a ball was in progress that evening at Eaves' Hall, and feeling inclined to "trip the light fantastic toe," left the place under guard of a friend named Barrow. This man remained in the building till after midnight, when, feeling chilly, he stepped outside to warm himself with a short walk. No sooner had he passed out at the door than it was closed and locked by an employe of the office who had not left the premises. Kingsley returned in a short time and learned how affairs stood. He waited around until the evening of the 12th, but being unable to regain an entrance into the building, retired. This proceeding brought the matter into the District Court, which Judge Rowberry and Clerk Warburton were required to attend on September 15th and 16th.

On the 17th, Judge McKean ruled that Rowberry and Warburton must relinquish the offices, and awarded Chamberlin \$450 damages. During the trial, McKean refused to permit Judge

Rowberry to introduce evidence of his title to the office, and in the decision ridiculed him for not bringing forward such evidence. Next day the Tooele County records were turned over to U. S. Marshal Maxwell, and by him delivered to the Liberals, whose party boastfully heralded the event as the birth of "The Tooele Republic."

The contest before the County Court was determined on September 26th. L. A. Brown, though exercising the functions of Probate Judge under the rulings of Judge McKean, declined to take part with the court as a canvassing board, and the proceedings were conducted by the three Selectmen, in conformity with the Territorial statute regulating contested elections. An investigation revealed the extent of the fraud which had been perpetrated. The first case examined was that of Messrs. Warburton and Martin, claimants for the office of County Recorder. On the face of the returns the former had received 1,039 votes and the latter 1,173. It was discovered that in Ophir precinct, out of 410 ballots deposited, 280 were illegal because the depositors were non-residents. At Jacob City 526 illegal votes out of a total poll of 570 had been cast by persons who had not acquired a legal residence in the precinct or county. At Lewiston 35 out of 43 votes, and at Deep Creek 23 out of 53, were illegal for the same reason. In these five Liberal strongholds 981 non-residents had voted. The canvassing board found that if the entire legal vote of these precincts was given to Martin, it would leave Warburton, for County Recorder, a majority of 633. The board also ascertained that Judge Rowberry received 673 more votes for Probate Judge than had been legally cast for L. A. Brown, whom the Federal officials had installed. W. H. Lee, for Sheriff, had 644 votes over his opponent, and other People's candidates on the county ticket had like majorities. The result of the canvass by the County Court was certified, to the Secretary of the Territory, but Governor Woods refused to issue commissions to the legally elected officers. On the 1st of October, notwithstanding the fact that the result of the contest before the canvassing board was regularly brought to his attention, Judge McKean issued a

peremptory order instating in office the Liberal sheriff and other candidates of that party for county officers. Thus Federal executive and judicial officers perfected the work of fraud, and in contravention of the basic principle of republican government—the constitutionally expressed will of a majority of the citizens—the “Tooele Republic” was inaugurated.

After performing the duties of Probate Judge for less than a month, Mr. Brown, feeling some qualms of conscience over his part in the affair, and realizing that most of the people held him in contempt, resigned the office and moved away. Regardless of the certificate of the canvassing board that Judge Rowberry was duly elected to the position, George A. Black, who was Acting-Governor in the absence, in California, of Governor Woods, appointed and commissioned E. S. Foote as Probate Judge. This was on October 14th.

Another feature of the Tooele election of 1874 was the prosecution in the District Court of several Mormons, charged with voting illegally at that election. The facts are as follows. In early days the Probate Courts in the Territory issued naturalization papers to aliens. It was claimed that this action was valid, though there was considerable doubt on that point. When the Poland law was enacted it confirmed all judgments and decrees of the Probate Courts which had been carried into execution, or where an appeal had not been taken and the time for appeal had expired. Many thought that this resolved the doubt in favor of the validity of the Probate Court papers already issued, and over a hundred persons voted on them in Tooele County. The District Courts subsequently decided that these papers were void, and a number who had relied upon them and voted were brought before Judge McKean and fined. A judge of election, Mr. Lysander Gee, who had knowingly received such a vote, was sentenced to a month's imprisonment. It is perhaps needless to say that the punished judge of election and voters were supporters of the People's Party. Not one of the illegal voters for the Liberals was molested.

There was one officer balloted for at the Tooele election in whose case the final adjudication was not with Governor Woods or Judge McKean. This was the Representative to the Legislature. George Atkin was the People's candidate, and E. S. Foote the Liberal candidate for that office. By the count of all the ballots cast, Atkin was given 1017 and Foote 1201 votes. The determination as to which was elected was with the House of Representatives, and when the Legislative Assembly convened on January 10th, 1876,* a contest was instituted and careful and searching inquiry made into the facts. It was learned that a considerable number of persons who had only declared their intention to become citizens had voted under the mistaken impression that their first papers entitled them to do so. The result of the investigation was the rejection of the following votes:

| | FOR ATKIN. | FOR FOOTE. |
|---|------------|------------|
| Persons voting on first papers, - - - | 147 | 2 |
| Persons voting whose names are not on tax list, - | 59 | 929 |
| Non-residents of precincts where votes were cast, | 3 | 8 |
| Minors, - - - - - | 2 | 0 |
| Aliens, - - - - - | 26 | 5 |
| Repeaters, - - - - - | 0 | 1 |
| Totals, - - - - - | <u>237</u> | <u>945</u> |

The vote then stood: Foote 256; Atkin 780. The latter was 524 ahead, but his vote was further reduced by the ballots of 121 persons who held Probate Court papers only. Without these he had a majority of 403 over Foote, and was accordingly seated as the Tooele Representative.

At the general election in August, 1876, an attempt was made in Tooele County for a fusion ticket between Mormons and conservative non-Mormons, but it failed; and the People's voters, realizing that the conditions were adverse to their obtaining a fair count, took little or

* The salaries of members of this Legislature were diverted by Congress to the payment of expenses of the Federal Courts. No appropriation was ever made by Congress for the reimbursement of the legislators.

no interest in the proceedings. George R. Warren, the Liberal who was elected Representative, failed to qualify, and the county was unrepresented in the Legislature of 1878. How the county was subsequently rescued from the hands of the Liberals, after four and a half years of fraudulent and extravagant misrule, will be set forth in the succeeding volume.

CHAPTER XXVII.

1873-1875.

THE ANN ELIZA CASE—BRIGHAM YOUNG'S "NINETEENTH WIFE" SUES FOR DIVORCE AND ALIMONY—JUDGE MCKEAN GIVES HER THE STATUS OF A LEGAL WIFE AND ISSUES AN ORDER GRANTING ALIMONY PENDENTE LITE—FAILING TO COMPLY WITH THE JUDGE'S DECISION THE FOUNDER OF UTAH IS SENT TO THE PENITENTIARY—THE BOOMERANG RETURNS—FALL OF JUDGE MCKEAN—CHIEF JUSTICE LOWE SUCCEEDS HIM—FURTHER FACTS IN THE DIVORCE SUIT OF YOUNG VERSUS YOUNG—THE CASE OF FLINT VERSUS CLINTON—THE RICKS MURDER TRIAL—THE REYNOLDS CASE—PRESIDENT GRANT'S VISIT TO UTAH.

IN detailing the facts connected with the rise of the so-called "Republic of Tooele," we have again been forced to anticipate events to which it is now time to return. What we wish specially to present in this chapter is a narration of the celebrated "Ann Eliza" divorce case, which constituted the rock upon which Chief Justice McKean finally fell and was figuratively if not literally broken in pieces.

It was not in the nature of things that a man like James B. McKean, with his fanatical temperament and headstrong will, if left long enough in power, would fail to commit some act which would cap the climax of his career of reckless blundering and recoil upon him with fatal effect. He had survived the shock of the Englebrecht decision, shattering, as it did, the major portion of his judicial rulings in Utah and his hopes of political preferment based thereon; but it was because he knew himself to be sustained by President Grant, who, while removing District Attorney Bates, on account of his opposition to the Chief Justice, and superseding Marshal Patrick by the anti-Mormon fire-eater, General Maxwell, retained in place and power Judge McKean, in spite of the roaring storm of censure that his illegal and despotic course had evoked. The stubborn and impenitent pride of the Chief Justice, who persisted in the belief, or at

any rate the assertion, that he was right and the Supreme Court and his critics throughout the country wrong in the controversy at issue, doubtless aided to uphold him in that trying hour; but alas! it also helped to blind his eyes and harden his heart to the consequences of future misconduct, so that, profiting nothing by his past mistakes, he discerned not, or cared not, for the foaming breakers which should have warned him of the rocky reef upon which his official bark was so recklessly driven. It is an old and true adage that a certain class of characters, if given enough rope, will hang themselves. Without meaning to include Judge McKean in any opprobrious allusion, it is pertinent to say that so far as cause and effect are concerned, his case proved no exception. His powerful friend, President Grant, did him no real service when he gave him a longer lease of power than that which should have ended with the delivery of the Englebrecht decision. It was simply the rope with which he hanged himself. How the deed was done it is now the author's province to explain.

On the 28th of July, 1873, a divorce suit had been planted in the court presided over by Judge McKean. The plaintiff was Mrs. Ann Eliza Webb Young, the alleged nineteenth wife of President Brigham Young, who was made the party defendant. Besides a decree of divorce and permanent support for herself and her children, the plaintiff asked for alimony and sustenance *pendente lite*, or during the progress of the litigation. Messrs. Frank Tilford, Albert Hagan and John R. McBride were the attorneys for the plaintiff, and Messrs. Hempstead and Kirkpatrick, Parley L. Williams, Le Grand Young and Ben Sheeks, counsel for the defendant.

The plaintiff alleged, among other things, that she was a native of Nauvoo, Illinois, but had resided continuously in Salt Lake County, Utah, since the year 1848; that on the 6th of April, 1868, she and the defendant, Brigham Young, intermarried in this county, and that ever since then she had been his wife; that at the time of this union she was the mother of two children, aged respectively four and two years, the issue of a former marriage; that these children, both boys, were still living and were in her custody, with

no means of support excepting such as she could provide. Then followed allegations as to neglect, unkindness, cruelty and desertion on the part of the defendant, who was charged with having failed for some time to provide for the plaintiff. Wherefore she now prayed that by the final decree of the court the defendant be required to support her and her children, and that the bonds of matrimony between him and herself be forever dissolved; also that during the pendency of this action the defendant be required to pay alimony for the maintenance and support of her and her children, and likewise the fees of her solicitors and counsel. She represented that the defendant was the owner of vast wealth, amounting to several millions of dollars; that he was in the receipt of a monthly income of not less than forty thousand dollars; and she prayed for an *ad interim* allowance of one thousand dollars per month.

In answer to the complaint the defendant interposed as follows. He denied that the plaintiff was or ever had been his legal wife, though he admitted that on the 6th of April, 1868, he had married her as a plural wife according to the rites of the Church of Jesus Christ of Latter-day Saints, of which they were both members. He had been advised since their marriage, though he was not aware of it at that time, that the plaintiff had never been divorced from her former husband, James L. Dee, whom she wedded on the 10th of April, 1863. Consequently the said James L. Dee, who was living, was still her lawful husband. The defendant further alleged that on the 10th of January, 1834, at the town of Kirtland, Ohio, he had been duly and lawfully married to Mary Ann Angell, who was still living and had ever since been his lawful wife. The allegations of the plaintiff as to neglect, unkindness, cruelty, failure to support, etc., were all denied, as was her statement respecting the wealth and monthly income of the defendant. He alleged that according to his best knowledge and belief all his property taken together did not exceed in value six hundred thousand dollars, and that his gross income from all sources was not more than six thousand dollars per month. The defendant denied that one thousand dollars, or

any other sum exceeding one hundred dollars per month, would be a reasonable allowance to the plaintiff, even if he was under any legal obligation to provide for her during the course of this litigation.

The case, like Pope's wounded snake, "dragged its slow length along." A demurrer to the complaint was filed by the defense on the 7th of August, 1873, and overruled by Judge McKean on the 24th of July, 1874. On August 25th of the latter year the defendant's answer was filed, and in September following arguments were made upon the motion to grant temporary alimony and counsel fees. It was not until the 25th of February, 1875, nineteen months after the filing of the plaintiff's petition, that the question of alimony *pendente lite* was ruled upon. On that day Judge McKean gave a lengthy decision covering the point, and on the ensuing day issued an order of court conformatory thereto. He directed that the defendant pay to the plaintiff the sum of three thousand dollars to defray the expenses of prosecuting her suit, and that he also pay to her for her maintenance and the maintenance and education of her children the further sum of five hundred dollars per month, to commence from the date upon which the complaint was filed. Ten days were given the defendant in which to pay the three thousand dollars, attorney's fees, and twenty days in which to pay nine thousand five hundred dollars, accumulated alimony for the period of nineteen months. Thereafter he was to pay five hundred dollars on the first day of every month during litigation in the case. An exception was taken by the defense, and on the 8th of March, ten days after the issuance of the order, an appeal to the Supreme Court of the Territory was perfected.

At the expiration of the time within which the defendant was required to conform to that part of the decision relative to the payment of the three thousand dollars, attorney's fees, no such payment having been made, the plaintiff's counsel obtained an order of attachment requiring the defendant to come into court and show

cause why he should not be punished for contempt. President Young, on the morning of the 11th of March, appeared personally and by his attorneys in the District Court and made answer accordingly. The answer, which was read by Mr. P. L. Williams, stated that the respondent had been advised by his counsel that he was by law entitled to an appeal from the decree of the 25th of February, and that pending the determination of such appeal the execution of the court's order might be stayed; that an appeal to the Supreme Court of the Territory had been taken and perfected, and that his omission and failure to comply with the said order was owing wholly to his desire to obtain the benefit of his appeal. The respondent disclaimed all intention or disposition to disregard or treat contemptuously any process of the court, and prayed that further proceedings in execution of the order relative to the payment of fees and alimony be stayed until the determination of the appeal.

Arguments of counsel followed, prior to which Mr. Williams and subsequently Mr. Hempstead asked Judge McKean to allow the defendant to retire from the court room. It was represented that he was not in good health, and that he was ready to enter upon recognizances or to give a bond for his appearance whenever required. The only answer vouchsafed was a remark to the effect that the arguments in all probability would not be lengthy. A moment later the Judge informed the speakers that no undue limit would be placed upon them. It was evident that McKean had prepared in his own mind a little program, which he was bent upon carrying out in spite of all the arguments that might be adduced, and the complete success of that program demanded that the preordained victim, Brigham Young, be upon the scene when the *denouement* came. Hence the refusal to allow him to retire.

Mr. Hempstead made the opening argument, and was followed by the attorneys for the plaintiff, after which Mr. Hempstead closed. Judge McKean then wrote out and read the following order:

TERRITORY OF UTAH, }
 Third District Court, }

Anna Eliza Young, by her next friend, *vs.* Brigham Young.

This court, having on the 25th of February last, made an order in this cause, ordering and adjudging that defendant herein should pay alimony and sustenance, the former within twenty and the latter within ten days thereafter, and the defendant having disobeyed the said order in this, that he has refused to pay the sustenance therein ordered to be paid, and the defendant having been brought before the court by warrant of attachment and ordered to show cause, and having in writing and by counsel, shown such cause as he and they have chosen to present to the Court; and the Court holding and adjudging that the execution of the said order of the 25th day of February last can be stayed only by the order of this or some other court of competent jurisdiction.

It is therefore, because of the facts and premises, ordered and adjudged that defendant is guilty of disobedience to the process of the Court, and is therein guilty of contempt of Court.

And since the Court has not one rule of action where conspicuous and another where obscure persons are concerned; and since it is a fundamental principle of the Republic that all men are equal before the law; and since this Court desires to impress this great fact, this great law upon the minds of all the people of this Territory:

Now, therefore, because of the said contempt of Court, it is further ordered and adjudged, that the said Brigham Young do pay a fine of twenty-five dollars, and that he be imprisoned for the term of one day.

Done in open Court, this 11th day of March, 1875,

JAMES B. McKEAN,

Chief Justice and Judge of the Third District Court.

As soon as the reading was ended Attorney McBride requested the court to so amend the order as to cause the defendant to be imprisoned until the fees were paid. The Judge replied that he would let the future take care of itself. The three thousand dollars were paid to the plaintiff's attorneys by Mr. James Jack, President Young's chief clerk, just after the rendering of the decision.

With the calm dignity so characteristic of him, particularly in the presence of a crisis, President Young received the sentence passed upon him by Judge McKean. The same quiet demeanor which he had worn all through the proceedings ending in the indignity so ungenerously put upon him, was manifested as he arose and left the court room in custody of U. S. Deputy Marshal A. K. Smith. Entering his carriage, which had remained in waiting, the President, accompanied by his guard, was driven to his own residence, where

he ate dinner, supplied himself with bedding, clothing and such other articles as he might need while in prison, and was then conveyed through a heavy snow storm to the Penitentiary. Mayor Wells, Dr. S. B. Young and Mr. William A. Rossiter accompanied the President and Deputy Marshal Smith, and remained at the Warden's house over night. Many other friends of the prisoner drove out to the Penitentiary during the afternoon, and a small host of sympathizing adherents, awaiting the hour of his deliverance, found lodgings at every available place in the vicinity. The President was at first locked in a cell—the only one that the institution afforded—with murderers, thieves and other convicted criminals, or men awaiting trial for alleged crimes; but this was only until better quarters could be provided for his reception. In a short time he was transferred to a room adjoining the Warden's house, where he passed the night in comparative comfort. He received from his guard all the courtesies that could consistently be granted under the circumstances. Between twelve and one o'clock next day, Friday, March 12th,—the brief term of imprisonment having expired—the prison gates swung open, and the freed captive, surrounded by a multitude of friends, was escorted back to the city.

Upon the sensation, at home and abroad, caused by the imprisonment of the venerable founder of Utah, we need not dwell. Suffice it to say that outside of the McKean coterie and its sympathizers, the tyrannical conduct of the Chief Justice, in casting him into a dungeon for an offense so slight and unintentional as that which he had technically committed,—though under a decision subsequently determined to be illegal—was universally regarded as a most unmagnanimous act. Gentiles and Mormons alike condemned it, and the fair-minded press of the entire country out-vied even the Utah papers friendly to the Mormons in deprecating and denouncing it. Here are a few samples of these anti-McKean criticisms, culled from the newspapers of some of the leading cities of the land. The first is from the *New York Post*, and is anent the decision of the 25th of February:

After more than six months' deep study his Honor, Chief Justice McKean has given his decision in the case of "Ann Eliza against Brigham Young," for alimony *pendente lite* for divorce. It is embraced in two closely printed columns of a Salt Lake newspaper, which a correspondent, who sends us a copy of it, writes that he confesses his inability to comprehend. But therein the judge evinces his wisdom. If his opinion were written in the language of the Utes or Sioux he could not be so successful in disguising his reasoning, those aboriginal tongues not being adapted to the concealment of thought by verbiage. Only one thing is clear—that is, that the plaintiff is to have her law expenses paid and \$500 monthly alimony *pendente lite*. Thus in order to deplete Brigham's bank account the judge repudiates his own principles and infringes upon the law against polygamy, which he has heretofore so strenuously maintained. By this law a man can have but one wife. Brigham Young fought his case "on this line," proving that he was married to Mary Ann Angell, his still living wife, on January 10th, 1834. By the law of Congress made especially for Utah, and by the common law of the land, any other woman taken by him to his bed and board after his first legal marriage is not his wife. This is the very point that Judge McKean has heretofore considered it his special mission to establish.

But now comes Mrs. Ann Eliza Webb, and on the 6th of April, 1868, (Brigham Young having previously taken to himself, unlawfully, seventeen other women) and according to the laws of the Mormon Church becomes his nineteenth wife, or, according to the laws of the United States, his eighteenth concubine. Married according to the rules of that church, she knew what they were. They expressly permit a woman to claim divorce at any time, *without alimony*. Connecting herself with Brigham in what Judge McKean has always rightly declared to be an illicit way, she renders herself, as well as Brigham, liable to criminal prosecution. By his decision the judge recedes from his own principles, and may fairly be hailed by the Mormon Church as a convert to the doctrine of polygamy.

Regarding the "Ann Eliza" case, the alimony decision, and the imprisonment of the Mormon leader for alleged contempt of court, the San Francisco *Bulletin* had this to say :

The court ordered that Brigham Young should pay over about \$3,000 to aid Ann Eliza in prosecuting her suit for divorce. Young hesitated to comply with this order, and the court inflicted a fine and ordered that he should be imprisoned twenty-four hours *after* Young had paid over the \$3,000 to the clerk of the court. Young disclaimed any intention of committing a contempt, but desired to raise the question of his liability before a higher court. By this ruling Judge McKean assumes that Ann Eliza was actually married to Brigham Young, when all the facts show she was never legally married to him, and could not be, from the very nature of the case.

* * * * *

When Judge McKean assumes that this woman is the wife of Young, makes an interlocutory decree granting her \$3,000 to maintain a suit for divorce, when there never was a legal marriage, and commits Young for contempt because he hesitates long enough

to raise the question of the legality of the order, he burns some strange fire on the altar of justice.

* * * * *

It is a reproach to the country that Young was not long ago dealt with squarely on the ground that every polygamous marriage is a crime. But an oblique and cunning interpretation of law which assumes that to be a marriage which was no marriage, only a scandalous cohabitation, is not a straightforward way out of the difficulty. Instead of taking the bull by the horns, it is an attempt to grasp him by the tail.

There is another phase of the case which cannot escape notice. When Ann Eliza Young takes to the platform and recites her assumed wrongs in the ears of the public, it is competent for the public to inquire whether she makes out any case calling for special sympathy. The evils which she suffered were incident to the social economy which was good enough for her so long as she could supplant the lawful wife of Brigham Young. What were the evils which this wife suffered? Ann Eliza, who now seeks to make merchandise out of her illegal relations with Brigham Young, entered into that relation in mature years, and after she had been lawfully married to another man. As a social reformer she does not present any striking or salient features. Nor can her contribution to platform literature be very attractive to right minded people.

The Chicago *Times*, on the day that President Young was set at liberty, uttered the following opinion respecting the treatment to which he had been subjected :

The proceeding is a somewhat extraordinary one. It is customary, when an appeal has been taken and bonds filed for the faithful performance of the verdict of a court, to hold judgments in abeyance until the appeal is at least argued. This summary method of dealing with the Prophet looks very much like persecution, and will awaken sympathy for him instead of aiding the cause of justice.

But the most satisfactory utterance, and one which caused a great and spontaneous outburst of general rejoicing throughout Utah, was the following message that came over the wires from the nation's capital five days after Judge McKean had emptied his last vial of official wrath upon the head of the foremost spirit of Mormonism :

WASHINGTON, 16.—The President has nominated Isaac C. Parker, of Missouri, Chief Justice of Utah, vice McKean; and Oliver A. Patten, of West Virginia, register of the land office at Salt Lake City. The nomination of ex-Congressman Parker, of Missouri, to be Chief Justice of Utah, involves the removal of Judge McKean, but does not indicate any change in the policy of the administration regarding the question of polygamy. The removal, and that of the present register of the land office in Salt Lake, are caused by what the President deems the fanatical and extreme conduct on the part of these officers,

as evidenced by their violent attacks on Governor Axtell and certain senators who recommended his appointment, and by several acts of McKean which are considered ill-advised, tyrannical and in excess of his powers as judge."

Thus it was that Judge McKean's career came to a close. The powerful hand which had so long upheld him was withdrawn, and beneath the accumulated burdens of his own blunders he sank never to rise again. The few remaining years of his life were spent in Utah, where he occasionally practiced at the bar, but it was as a broken-down, dispirited man that he eked out the remainder of his existence. His health was shattered, and his physical system, weakened and debilitated, finally fell a prey to the grim destroyer. He died of typhoid fever at Salt Lake City on the 5th of January, 1879, and was buried in Mount Olivet Cemetery.

The rumored appointment of ex-Congressman Parker, of Missouri, to succeed McKean as Chief Justice of Utah, was an error. Instead of him, it proved to be Hon. David B. Lowe, of Kansas, who had been named for the position. The mistake arose from the fact that Mr. Parker had simultaneously been nominated for the Judiciary of Arkansas. Chief Justice Lowe arrived at Salt Lake City on Saturday, April 10th, 1875, and on the 14th of that month was assigned by Governor Axtell to the Third Judicial District, taking his seat upon the bench the same afternoon. Associate Justice Emerson, who, in the interim between the stepping down of Chief Justice McKean and the arrival of his successor presided in the Third District, was on the same day re-assigned to the First.

The case of Young *versus* Young came before Judge Lowe on April 24th, on an application for the defendant to be required to show cause why he should not be punished for contempt in failing to pay the \$9,500 alimony awarded to the plaintiff by Judge McKean. Judge Lowe was urged to imprison the defendant for the alleged contempt, but on May 10th he made a ruling which was designated by members of the bar generally to be "the most learned opinion ever delivered from the bench in this Territory." In this he refused to grant the motion of the plaintiff's attorneys for the reason that a

valid marriage had neither been admitted by the parties nor proved.

After the resignation of Judge Lowe, a few weeks later, and before the arrival of his successor, Alexander White, the motion disposed of by the former was renewed before Judge Boreman, who, on October 30th, granted the request therein, and ordered the defendant imprisoned until the \$9,500 was paid. During these proceedings President Young was too ill to appear in court. The Judge, however, insisted that he be present at the time the decision was rendered, until the attorneys for both sides united in a request that the rule be not enforced. Judge Boreman did not order the defendant to be incarcerated in the Penitentiary, but left the place of his imprisonment to the discretion of Marshal Maxwell. Under the circumstances the latter decided that President Young's own residence was the most suitable place, and for three weeks the defendant was again in custody. His guards were Deputy Marshals Arthur Pratt and Boman Cannon.

Three days after Judge Boreman's action, the subject was a topic of discussion in a cabinet meeting at Washington, and the Attorney-General sent a requisition to the Utah officials for a copy of all the papers in the case. On November 12th a writ of *habeas corpus* was taken out before Chief Justice White, who, on the 18th, set the defendant at liberty, because the order of Judge Boreman, in re-adjudicating the identical issue previously disposed of by Judge Lowe in the same court, was unauthorized and therefore void.*

* Chief Justice White had entered upon his official duties that same month—November, 1875. He only remained three months. On February 9th, 1876, he was called to Washington to answer charges made against him before the Senate Judiciary Committee, and his nomination was withdrawn by the President on the 20th of March ensuing. In charging the Grand Jury of his court in February, 1876, Judge White paid the following tribute to the virtues of the Mormon people:

“I have not, nor do I propose to enter upon a discussion of the morality or immorality of polygamy practiced by a people, who, in other respects, are law-abiding, moral and upright. Upon that point you would probably differ among yourselves, and a portion of you differ from the court. With the ethics of the subject neither you as grand jurors nor I as a court have anything to do. I do not utter the language of prejudice, nor

Judge White was succeeded by Chief Justice Michael Shaeffer, who assumed the ermine on May 31st, 1876. Upon his accession to office, an effort to compel the defendant to pay alimony was again made. There had been only one payment of \$500, while under the decision of February, 1875, a total of \$18,000 was due. Judge Schaeffer reduced the alimony *pendente lite* to one hundred dollars per month, thus making the entire sum \$3,600. On July 31st, 1876, it was ordered that the defendant pay this, or in default thereof that an execution issue against his property. Under this writ about four thousand dollars worth of personal property was sequestered, and on November 1st it was sold at auction, realizing \$1,185. For the remainder, rents of certain realty owned by the defendant were ordered seized. On April 20th, 1877, the divorce case at last came to trial, and after hearing the testimony and arguments Judge Schaeffer decreed the polygamous marriage between the parties to be null and void. He directed that all orders for temporary alimony which had not been complied with, paid or collected, be revoked and annulled, and assessed the costs of the suit against the defendant.

Several other important cases had come up in the Third District Court during the last days of Judge McKean and the *ad interim* term of Judge Emerson. One was the case of Flint *versus* Clinton, the plaintiff in which was Miss Kate Flint, keeper of a house of ill fame, and the defendant Alderman Jeter Clinton, who was impleaded with

treat lightly or derisively the Mormon people or their faith. No matter how much I differ from them in belief, nor how widely they differ from the American people in matters of religion, yet testing them and it by a standard which the world recognizes as just, that is, what they have practiced and what they have accomplished, and they deserve higher consideration than ever has been accorded to them. Industry, frugality, temperance, honesty, and, in every respect but one, obedience to law, are with them the common practices of life. This land they have redeemed from sterility, and occupied its once barren solitudes with cities, villages, cultivated fields and farm-houses, and made it the habitation of a numerous people, where a beggar is never seen and alms houses are neither needed nor known. These are facts and accomplishments which any candid observer recognizes and every fair mind admits."

others.* The litigation grew out of the abatement by the Salt Lake City police, under a warrant issued by Alderman Clinton, of two houses of prostitution, one of them owned and conducted by the plaintiff. The act of abatement took place on the 29th of August, 1872. This suit, like its celebrated predecessor, the Englebrecht case, was indicative of the struggle then going on in Utah between the opposing elements of vice and virtue,—the latter represented by the local civic authorities backed by the united sentiment of the majority of the people, and the former by saloon men, gamblers and prostitutes, encouraged in their lawlessness by the anti-Mormon ring, and all but openly championed by officials of the Federal Government. It came on for trial on the 9th of March, 1875, and was the last important cause adjudicated by Judge McKean. Messrs. Robertson, Morgan and McBride appeared for the plaintiff, and Messrs. Snow, Sutherland and Bates for the defendant. During the empaneling of the trial jury, an effort was made to exclude all Mormons therefrom, the plaintiff filing an affidavit to the effect that the defendants were members of the Church of Jesus Christ of Latter-day Saints, and that she was not; and having, as she believed, “incurred the displeasure of the said Church organization,” she prayed that membership therein might be deemed a sufficient cause for the challenging of jurors. The court allowed the affidavit to be filed, but did not sustain the challenges based thereon by the plaintiff’s attorneys. A jury of Mormons and non-Mormons was finally obtained, and after the arguments had been made, was duly charged by the Chief Justice. This was on the 15th of March, one day prior to his removal from office. The charge was altogether in favor of the plaintiff. It was to the effect that Justice Clinton and his co-

* A subsequent charge against Doctor Clinton was that of murdering John Banks, who died of wounds received in the Morrisite war. He was arrested on July 19th, 1877, and lodged in the Penitentiary. U. S. Marshal Nelson placed him in irons and subjected him to other severe treatment. The Doctor was in ill health and public indignation was aroused by the Marshal’s harshness, and on August 4th the prisoner was removed to the Salt Lake County jail. When a judicial investigation was made he was exonerated from the charge and set at liberty.

defendants went beyond the law in destroying her property.* The Judge said that if the jury found the destruction was maliciously done, they should find a verdict for the plaintiff for three times the value of the property destroyed; but that in the absence of the element of malice the verdict should be for an amount equal to the value of the property alone. The jury, on Wednesday, March 17th, came into court and announced that they were unable to agree upon a verdict. Thereupon they were discharged from further consideration of the case, which was subsequently continued for the term. Judge McKean, who had evidently passed a sleepless night,—the news of his official decapitation having been received just the day before,—immediately after the report of the jury as to their disagreement, though it was yet early in the forenoon, ordered an adjournment of court. He never again sat upon the bench in the Federal court room.

Next morning—March 18th—Associate Justice Emerson took the chair of the Chief Justice, who busied himself with minor matters in chambers. It was in response to the unanimous wish of the leading members of the bar, expressed to Governor Axtell, that the latter appointed Judge Emerson to take temporary charge in the Third District. Emerson was not only regarded as an upright magistrate and a sound jurist, but was also known to be an energetic official, who had a way of pushing through the business of his court that was exceedingly gratifying to attorneys, litigants and prisoners awaiting trial, many of whom were disgusted and disheartened at “the law’s delay” under the administration of Judge McKean.†

One of these prisoners was Colonel Thomas E. Ricks, ex-Sheriff

* The Congressional statute at that time restricted the jurisdiction of Justices of the Peace to cases in which the value of property involved was less than one hundred dollars. This suit and that of Englebrecht and Co., against the city officers, were finally settled by compromise between the parties.

† For being understood as intimating certain things in relation to these delays, Attorney George E. Whitney on one occasion was severely reprimanded by Judge McKean in open court. After adjournment, as the Judge was leaving the room, Mr. Whitney accosted him and told him that he had lied. Proceedings in contempt followed, but before the climax was reached McKean was removed from office. It was believed that his displacement was partly due to Mr. Whitney’s influence at Washington.

of Cache County, who, at the time that Judge Emerson began holding court at Salt Lake City, had been lying in prison for six months, awaiting trial on a trumped up charge of murder, alleged to have been committed about fifteen years previously. During his imprisonment he had had opportunities to join two successful escape parties, but had preferred to remain in durance and have his case come to trial, feeling confident that he would be acquitted and desiring to clear his name of the stigma placed upon it by the grand jury which had indicted him.

The facts relating to the alleged crime are these. About the last of June or the beginning of July, 1860, Colonel Ricks, who was then Sheriff of Cache County, arrested one David Skeene for horse-stealing, and had him in custody at Logan. The place of his temporary confinement was an old log school-house in that town. Skeene was a confirmed horse-thief and a dangerous and desperate character. He had formerly been under arrest in Utah County, but had succeeded in escaping after being hotly pursued and shot at by the officers. During the night following the day of his arrest in Cache County—July 2nd—the inhabitants of Logan were startled by the report of several pistol shots in the vicinity of the log school-house in which Skeene had been placed, with Sheriff Ricks and others on guard over him. Several citizens, hastening to the spot, found the body of the horse-thief lying dead outside the building, and were informed by the Sheriff and his men that he had been shot while attempting to escape. Colonel Ricks stated that Skeene had come at him as if to snatch his revolver, whereupon he, the Sheriff, threw up his arms to ward him off and at the same time discharged his pistol, the ball taking effect in the floor. Again the prisoner rushed upon him and the officer then fired at him repeatedly till he fell. This statement was confirmed by William Chambers, one of the guards, who, at the inquest held over the dead body of the prisoner, testified that he was guarding Skeene at the time and that the latter thought he (the witness) was asleep when he “made a grab” for Sheriff Ricks.

The inquest referred to was held at Logan on July 3rd, 1860, before Justice of the Peace, E. Landers, and a jury composed of Messrs. William B. Steele, William B. Preston, D. B. Dille, John Nelson and Cyrus W. Card. The witnesses examined were Thomas E. Ricks, who gave his account of the attempted escape and killing; William Chambers, who confirmed that account and testified to other particulars; James Denning, who stated that he had heard the shooting and, rushing to the spot as soon as possible, had found Skeene lying dead; James Pierson, who had seen men lurking about town whom he believed to be planning the escape of the prisoner; N. W. Birdno, who had seen a man running from the vicinity of the school-house immediately after the shooting, and David B. Dille, surgeon, who with the assistance of the jury examined the body and found five bullet holes, three in and about the breast and two in the loins. The verdict of the jury was to the effect that the deceased, Elisha David Skeene, came to his death in attempting to make his escape from the officers and guard who had him in custody.

Such were the facts relating to the killing, and it was out of these and other materials that District Attorney Carey, assisted by Mr. R. N. Baskin, proposed to construct a case of murder. They claimed to have been informed—and it was upon this information that Colonel Ricks had been indicted, arrested and imprisoned—that when he shot the prisoner Skeene, the latter was asleep, and that consequently the killing was unjustifiable. The main reliance of the prosecution, in their futile effort to prove the truth of this theory, was no other than the man William Chambers, one of the witnesses who had testified at the Logan inquest, and who had then and there corroborated the statement made by Colonel Ricks.

The trial of the case against the ex-Sheriff began on the 18th of March, 1875, the very day that Judge Emerson took his seat upon the bench of the Third District. The prosecution, as stated, was conducted by U. S. District Attorney Carey, assisted by Mr. Baskin. The defense was represented by Messrs. Sutherland, Bates and Snow. Two days were occupied in empaneling the jury, which,

being completed, stood as follows: De Witt C. Thompson, John S. Barnes, Alex. J. Daft, Frank Cisler, James Johnson, Joseph Peck, Ezra Foss, Stephen Hunter, Thomas H. Woodbury, Jr., William Irvin, William C. Morris and Joseph Weiler. Several of these were non-Mormons.

Mr. Carey briefly stated the case to the jury, giving first the view taken by the prosecution and afterwards the known plea of the defense. Various witnesses were then examined, among them William Chambers, upon whose testimony, as stated, the prosecution mainly relied. The substance of his story was as follows. He had been for several years a resident of Harrison County, Iowa, but in July, 1860, was living in Cache County, Utah. He was one of the men placed to guard Skeene on the night of July 2nd, and he claimed that he saw the defendant and others whom he did not know shoot and kill the prisoner, and that the first shots were fired while the latter was asleep. The memory of the witness was very faulty in places. He remembered that there was an inquest held on the body and that he was present, but he did not know anything about a justice of the peace named Landers. He did not recollect being sworn as a witness at the inquest, but admitted that he was there asked if Mr. Ricks' statement was true, and had answered that he believed it was. He did not recall having testified that Skeene rushed upon Ricks and seized him as if to snatch his revolver, nor that he, the witness, had feigned sleep when in the school-house on guard. The reason he did not testify at the inquest as he did now was because he thought another inquest would be held. Being asked by Mr. Baskin why he did not tell the truth at the inquest, Chambers replied that it was "because of past experience," though he stated in the next breath that no one there had intimidated him.

The defense, in rebuttal, introduced in evidence the duly attested minutes of the inquest held before Justice Landers on July 3rd, 1860. Therein it was recorded that Sheriff Ricks testified that he had shot the prisoner while in the act of rushing upon him as if to



J. E. Rick

snatch his revolver and effect an escape; and that William Chambers, being sworn, corroborated the Sheriff's statement, and added that he had long watched Skeene and that the latter thought he (the witness) was asleep when he "made a grab at Thomas Ricks." By numerous witnesses it was proven that Skeene was a bad character, a horse-thief and an abuser of women; that shortly before his death he had declared his intention to escape, and had boasted that if he got one foot the start of the officers they would not be able to overtake him. It was likewise shown that it was generally believed at the time that some of his confederates were plotting for his liberation. Charles Shumway testified that Judge Peter Maughan had informed him that he had heard of such a plot, and that the Judge requested him to go and warn Sheriff Ricks of the rumor. The witness stated that he went from Wellsville to Logan for that purpose and was with the Sheriff on the night of the killing. He was outside the house most of the time, but was inside once or twice, and saw Skeene lying upon the floor. Some knocks were given on the rear end of the building, and he went out to ascertain the cause, when two or three men ran rapidly away from the house. Hearing some shooting, Mr. Shumway returned to the front of the school-house and saw Skeene's body lying upon the ground. Several witnesses, among them William B. Preston, David B. Dille and Charles O. Card, testified that William Chambers, at the inquest held the day after the shooting, corroborated the Sheriff's account of the killing.

The examination of witnesses having concluded, arguments of counsel began, U. S. District Attorney Carey opening for the prosecution. He was followed by Judge J. G. Sutherland in behalf of the defendant. His colleague, Mr. George C. Bates, was the next speaker, and Mr. Baskin then closed for the prosecution. The jury, after receiving the Judge's charge, retired for a short time and returned into court the same evening with a verdict of not guilty. This was on Tuesday, the 23rd of March.

Another case disposed of during the occupancy by Judge

Emerson of the bench of the Third District was that of the United States *versus* George Q. Cannon, who had been indicted for polygamy in October, 1874. On the 2nd of April, 1875, the case was dismissed, it being discovered that it was barred by the U. S. statute of limitations.

The most notable case in court during this period, and one of the most important ever adjudicated in Utah, was that of the United States *versus* George Reynolds, for polygamy, which also began, though it did not end, in the Third District Court before Associate Justice Emerson. It was this case that tested the constitutionality of the anti-polygamy act of 1862, drew from the Supreme Court of the United States an opinion that that act, inhibiting the practice of a prominent feature of the Mormon religion, was within the legislative power of Congress, and produced the first conviction ever had under that statute. We shall reserve treatment of this celebrated case for the next volume.

The crowning event in Utah for the year 1875 was the visit to the Territory of President Ulysses S. Grant. The Chief Magistrate, in the autumn of that year, was on a visit to the Rocky Mountains, and being in Colorado was induced to extend his trip as far west as Salt Lake City. The fact that this was the first time Utah had been honored by a visit from a President of the United States was sufficient of itself to stamp the event as one of no ordinary character, and to awaken in the minds of all classes of citizens the keenest interest and expectancy. But in addition to this there was another and a weightier consideration. President Grant was prejudiced against Utah, and, influenced by such men as Vice President Colfax and Doctor Newman, had manifested toward the Mormon people a degree of hostility never equaled by any other occupant of the Executive chair, excepting perhaps President Buchanan. The prejudice and hostility of both were due to a lack of correct information. Grant is said to have admitted while in Utah that he had been deceived in relation to the true condition of affairs within her borders. "Let every eye negotiate for itself, and trust no agent,"

runs a Shakespearian proverb. The Mormons knew that if the President would do this during his stay, he would in all probability depart with far more favorable opinions respecting them than he had been able to form from the *ex parte* statements to which he had listened. They therefore rejoiced, and their joy was unfeigned, over the coming of the nation's chief, whom they prepared to honor in a manner befitting his exalted station.

The anti-Mormons took precisely the same view as the Mormons regarding the probable effect upon the President's mind of his proposed visit to Salt Lake City. Consequently, while glad enough to welcome and honor the distinguished visitor, it was their policy to capture him and give him the benefit of their peculiar views respecting the Saints, before he could fall into other hands and be impressed with the genial courtesies extended to him by the pioneers and founders of the Territory. It is very doubtful that they would have rejoiced to any extent over the visit of the President, had they not supposed that his anti-Mormon prejudice was a crust too hard and thick to be penetrated by those courtesies, and that they had it in their power to make the first overtures of reception, and by being beforehand with their representations, preclude any after impressions of an opposite nature that might be essayed.

It was on Saturday, October 2nd, that it was definitely ascertained that the Presidential party would visit Salt Lake, and would arrive at Ogden about noon of the 3rd. A meeting of Federal officers and non-Mormons was held, at which a committee of ten, headed by Governor Emery,* was appointed to meet the Executive and extend to him and the members of his party the hospitality of that portion of the community which the committee represented. The Mormon citizens were studiously ignored.

The municipal authorities, however, as representatives of the pioneers who first planted the American flag amid these

* George W. Emery, of Tennessee, was appointed Governor of Utah on June 8th, 1875, to succeed Governor Axtell, who was transferred to Arizona.

mountains, were not to be deterred from greeting the Chief Magistrate of the Republic. A special session of the City Council was called, at which the following resolution was adopted:

Having learned that the Chief Executive of the nation is *en route* to this city, and

Whereas, the people of Salt Lake City are desirous to give him a reception worthy of his official position; therefore,

Be it Resolved by the City Council of Salt Lake City, that the hospitalities of said city be and are hereby tendered to His Excellency U. S. Grant, President of the United States; and that a committee of arrangements be appointed with full power and authority to welcome him; and that they be instructed to invite the Federal and other officers, civil and military, to participate in all the ceremonies of the occasion.

In accordance with this resolution, the Council appointed a committee of three, who telegraphed the President as follows:

SALT LAKE CITY, October 2nd, 1875.

To His Excellency, U. S. Grant, President of the United States,

DEAR SIR:—Upon learning of your intention to visit Utah, the City Council of Salt Lake City passed a resolution, extending the hospitalities of the city to yourself and party. A special train will leave here in the morning to meet Your Excellency at Ogden. The civil and military officers of the Government, the officers of the Territory and City, and other citizens, are invited to form the party.

GEORGE Q. CANNON,
ALEXANDER C. PYPER,
A. H. RALEIGH,

In behalf of the City Council of Salt Lake City.

Invitations were issued to United States and other officials, and to leading private citizens, to go to Ogden on the special train next morning. The Governor and his committee, however, left by the early regular train, and went as far as Peterson station, on the Union Pacific, where the Presidential party was met and accompanied back to Ogden. The City Council's train, with municipal and county officers and invited guests, including President Brigham Young, Hons. John Taylor, Joseph F. Smith, Brigham Young, Jr., Francis M. Lyman, Feramorz Little, Judge Elias Smith, General H. B. Clawson, and several ladies, reached Ogden at 11 a. m. There they found a large assemblage of residents of the Junction City, gathered to greet the distinguished guest.

The Presidential party consisted of the President and Mrs. Grant, General O. E. Babcock, Colonel Fred. Grant and wife, Hon. Adolph E. Borie, ex-Secretary of the Navy, and Governor John M. Thayer, of Wyoming. The Union Pacific train rolled into Ogden shortly after noon. The President, who was standing upon the rear platform of a Pullman car with General Babcock and ex-Secretary Borie, was recognized by the throng, who waved hats and handkerchiefs, while the Ogden brass band played "Hail to the Chief." The President saluted the multitude by removing his hat and bowing.

When the train stopped, the City Council committee approached the President. Mr. Cannon presented his associates, and repeated to His Excellency the substance of the telegram they had forwarded. The President acknowledged the receipt of the dispatch, which had reached him at Evanston, but stated that he had not had time to reply. He informed the municipal committee that he had accepted an invitation from the Governor of the Territory to be his guest, and was therefore unable to fully avail himself of the one extended by the city, but would be happy to do so as far as his necessarily limited stay would permit. The committee were treated with warm courtesy. Mr. Cannon then introduced a number of gentlemen, including representatives of the press.

By this time the President's car was placed in the front part of the City Council's special train, and soon afterwards was being rapidly drawn toward Salt Lake by a Utah Central locomotive profusely decorated with the national colors. As the train started, President Brigham Young, Hons. John Taylor, Joseph F. Smith, Brigham Young, Jr., and the other gentlemen, as well as the ladies, were introduced to President Grant, and then in turn to the members of his party. The meeting between the nation's chief and the Mormon leader was cordial. After a pleasant interchange of remarks, President Young and Mrs. Grant spent about half an hour in conversation, in which others of the visitors occasionally joined. President Grant himself remained on the platform of his car, with Governor Emery and Delegate Cannon,

directing most of his remarks to the latter. The main topic dwelt upon was the material resources and industries of the Territory, in which the President seemed deeply interested.

Just before two o'clock in the afternoon the train reached Salt Lake City. The President and party were taken in charge by Governor Emery and his committee and conveyed to the Walker House. The weather was auspicious for the occasion of the first visit of a Chief Magistrate of the nation to "the vales of Deseret." A vast concourse of people crowded the streets near the station and along the route to the hotel. For half a mile, from the Utah Central block—now the Union Pacific passenger station—to East Temple Street, the road on either side was thronged with Sunday School children, attended by their teachers. Behind the ranks of this juvenile army arrayed in white or decked in all the colors of the rainbow, stood the adult portion of the assemblage, forming a tasteful background to the brilliant picture. The President and Mrs. Grant, accompanied by Governor Emery, rode in an open carriage drawn by four grey horses, at the head of a long line of vehicles. As the procession moved up the street, the President was greeted with the waving of hands, hats and handkerchiefs, and by the people, young and old, smiling and bowing. There was no boisterous demonstration—it was the Sabbath, and all was peace, happiness and beauty. The President bowed and waved his hat in response to the salutes of the populace. It is related of him that he turned to Governor Emery and inquired, "Whose children are these?" receiving the reply, "Mormon children." He thoughtfully gazed for a few moments upon the lovely scene before him, and then murmured in a meditative tone: "I have been deceived!"

At the hotel the President was called upon by many officials and citizens. During the afternoon, when a large audience of people had assembled in the street, he came out upon the hotel balcony and was introduced by Governor Emery, who said that he was certain of expressing the sentiment of the whole people when, in their behalf, he bade the President a hearty welcome to the Territory. The

Governor explained that as the President was quite hoarse from a severe cold, it would be difficult for him to respond to the calls which had been made for a speech.

Next morning President Grant, with Governor Emery, drove to the Temple Block, where he visited the Tabernacle and Temple, the latter being in course of construction. After obtaining a magnificent view of the city and valley from the hills north of the town, he was driven to Camp Douglas, where he was waited upon by the officers of the post. He took a short drive up Emigration Canyon, and then returned to his hotel, where a public reception was held, and several hundred citizens, ladies and gentlemen, introduced.*

The other members of the party, in company with several leading citizens, likewise visited the Temple Block, the hills north of the city, and Camp Douglas. At the Tabernacle they were entertained by Professor Joseph J. Daynes, who played several selections on the great organ. While listening to the delightful strains from the grand instrument, Mrs. Grant, with tears in her eyes, turned to ex-Delegate Hooper and exclaimed, with deep feeling: "Oh, I wish I could do something for these good Mormon people!"

On Monday forenoon the President's car at the railway station was beautifully decorated with flowers by Mormon ladies. Conspicuous among these floral adornments was the word "Welcome," artistically arranged. Four o'clock in the afternoon was the time of departure. On the way to the station, the visitors stopped for a few minutes at the residence of Hon. William Jennings. A large number of people had assembled at the station, where the appearance of the President was the signal for prolonged cheers, which continued as the train moved out. The run to Ogden was made in one hour. On the way the President and party occupied the special car of the municipal committee, and spent the time in pleasant conversation. The universal expression of all, the President included, was one of unmixed pleasure at their visit to Utah, the only regret being that their stay was necessarily so short.

* President Grant also paid a brief visit to the Penitentiary during his stay.

At Ogden the visitors started eastward over the Union Pacific, Denver being the next place where a brief stay was designed. The escorting party returned to Salt Lake, Governor Emery and his committee accepting the invitation of the municipal authorities to occupy seats in their specially chartered car.

CHAPTER XXVIII.

1874-1875.

THE MOUNTAIN MEADOWS MASSACRE INVESTIGATED—INDICTMENTS PRESENTED BY THE GRAND JURY—COLONEL DAME AND JOHN D. LEE ARRESTED—THE BATES CONTEMPT CASE—THE LEE TRIAL—KLINGENSMITH, A PRINCIPAL IN THE MASSACRE, TURNS STATE'S EVIDENCE—HIS VERSION OF THE TRAGEDY—TWENTY OTHER WITNESSES EXAMINED—THE JURY DISAGREE—WHY THE TRIAL PROVED A FAILURE.

AN EVENT of importance during the decade of the seventies was the trial, conviction and execution of John Doyle Lee, a leading spirit in the Mountain Meadows massacre. A full and accurate account of this awful affair, in the previous volume, renders unnecessary another recital. If the details given at the trial convey but a partial impression of all the circumstances connected with the tragedy, it must be borne in mind that all testimony deemed irrelevant to the special issue in court—the guilt or innocence of the indicted parties—was excluded, while the author of this work was unrestricted in his field of research, and had the advantage of writing at a period subsequent to the trial, when the facts were more easily obtained.

It was in the autumn of 1874 that public interest in the Mountain Meadows massacre was reawakened by a movement on the part of prosecuting officers in the Second Judicial District, within which the deed was committed. That movement was to ascertain the identity and whereabouts of witnesses, so that an investigation might be made and a prosecution of implicated persons be instituted. It was known that Philip Klingensmith,* one of the chief participants in the massacre, and an apostate from the Mormon

* He is also referred to as Philip Klingon Smith, or P. K. Smith, Bishop Smith and Mr. Smith. The indictment designates him as Philip K. Smith.

Church, was in San Bernardino County, California, and that he was anxious to secure immunity from punishment for his complicity in the crime, by turning state's evidence.* The probability, however, that his testimony would be more or less unreliable, and therefore subject to impeachment, because of his ardent desire to exculpate himself and gratify a feeling of hatred and revenge toward some of his former friends and associates, deterred the Government representatives from proceeding without seeking further direct proof in addition to the corroborative evidence available.

Though there was a plenitude of rumors as to persons who knew the internal history of the massacre, a degree of difficulty was encountered in determining who were actually in possession of that knowledge. This may have been partly owing to the obligation of secrecy placed upon all who were at the Meadows on the fatal day;† but the greatest impediment in the way of obtaining the requisite information was the action of the officers themselves, in shaping their course, as Judge Cradlebaugh had formerly done, for a crusade against the Mormon Church and its leaders. They thereby forced the members of that organization to stand aloof and refrain from extending the aid which otherwise would have been willingly given. It was vain to say to them that only guilty persons would be pursued. They knew better. The memory of the conspiracy of the McKean clique against the Church leaders, which had been overthrown by the United States Supreme Court, was yet fresh in their minds. McKean was still in office; a prosecution of the case by Baskin was prospective; while Boreman, Judge in the Second Judicial District, with U. S. Attorney Carey and U. S. Marshal Maxwell were ardent followers of the Chief Justice in his anti-Mormon mission. Had the officers

* The eagerness of Klingensmith to do this was shown when, on April 10th, 1871, he made a sworn statement before the county clerk of Lincoln County, Nevada, purporting to give a full account of the massacre and the causes which led to it. His story is at variance on several material points with that told by other and trustworthy witnesses, and with his own testimony on the witness stand. His evident purpose was to shield himself by shifting a large share of his own responsibility to the shoulders of others.

† See the detailed account of the massacre in Volume I., pages 692 to 709.

started out upon the legitimate course—which was adopted when a change occurred in the office of District Attorney—of ferreting out and pursuing the actual criminals, the people would have rendered them greater assistance, and their efforts would have been attended with earlier and probably better success. The unwisdom of the method adopted as to one of the most culpable actors in the tragedy—Klingensmith—would have been seen. But the prosecution, in an unreasonable desire to elicit proof of a condition which never existed, surrounded itself with difficulties not easily surmounted.

Enough witnesses were found, however, to make a presentment of the case before the Grand Jury. This jury—the first to be empaneled under the Poland law—was summoned for the opening of the Second District Court, at Beaver, on the 7th of September, 1874. The panel was not completed until the 9th. Of the fifteen members, ten were Gentiles, four Mormons, and one an apostate from the Mormon Church. The unanimity of twelve was necessary for the finding of an indictment. During the session of the jury, which ended on September 25th, twenty-eight bills were presented to the Court for crimes against United States and Territorial statutes. One of these was an indictment charging William H. Dame, Isaac C. Haight, John D. Lee, John M. Higbee, George Adair, Jr., Eliot Wilden, Samuel Jukes, Philip K. Smith* and William C. Stewart with participation in the Mountain Meadows massacre. John Smith and fifty other unknown persons were the alleged victims of the crime, which was stated to have occurred on September 16th, 1857.†

*Klingensmith.

† September 11th was the actual date of the massacre. The first indictment upon which Lee and Dame were arraigned charged the murder of James Wilson and fifty others, at Mountain Meadows Valley. This was quashed on July 20th, 1875, on motion of Dame's attorney, for the reason that it did not allege that the crime was committed within the jurisdiction of the Court. District Attorney Carey immediately presented another indictment, found at the same time as the previous one—September 24th, 1874—which did not contain this defect, and which he carried in his pocket for just such an emergency. This second indictment alleged a combination or conspiracy of the defendants to kill the emigrants, "John Smith and fifty others," and upon this the case went to trial.

This indictment was returned into court on the 24th of September. About the beginning of October Colonel William H. Dame, of Parowan, was arrested and lodged in the Penitentiary.* Warrants for the apprehension of the others were placed simultaneously in the hands of U. S. Deputy Marshal William Stokes, with instructions from Marshal Maxwell that John D. Lee was wanted first, if possible. Maxwell was of the opinion that the arrest would be a dangerous proceeding, as he did not believe that Lee would be taken alive; but he wished his deputy to do his best to make the capture.

On the 28th of October Stokes started for Lee's Crossing, on the Colorado River, Arizona, where he expected to find the object of his search. Next day he received information at Parowan that Lee was at Harmony, Washington County, and the officer arranged to attempt an arrest there, but soon ascertained that he was several days too late.

On November 7th, Stokes again started from Beaver, and learning that Lee was at Panguitch, then in Iron, but now in Garfield County, went there with a *posse* consisting of Thomas Winn, Thomas LaFevre, Samuel G. Rodgers, David Evans and Franklin R. Fish. Next morning, Sunday the 8th, Lee's house was surrounded and searched, but he was not in the building. By the movements of some of the family, however, the attention of the officer was attracted to a log pen, used as a chicken house, and in this, partly covered with straw, Lee was found, disarmed, and taken into custody.† There was talk of his sons making an effort to rescue him, but it was seen that a movement of that kind meant certain death to the prisoner, and probably to others, so that the idea, if

* President Grant, as stated, visited the Utah Penitentiary on October 4th, 1875. Looking down from the walls into the prison enclosure, his attention was directed to Colonel Dame as one of the parties indicted for the Mountain Meadows massacre. The President gazed intently upon him and then remarked: "That is not the face of a murderer."

† Mr. Stokes says that at the moment he discovered Lee he was himself covered by two guns in the hands of some of the Lee family. He had the accused at a disadvantage, however, with a loaded pistol close to his head, and he surrendered quietly.

entertained, was soon abandoned. Lee was taken to Beaver, his wife Rachel accompanying him. They arrived there on November 10th, and the prisoner was placed in Fort Cameron for safe keeping.

Of those indicted, Lee and Dame were the only ones arrested in 1874. When the spring term of court at Beaver came on, it was anticipated that they would be placed on trial; but on the evening of April 2nd Messrs. Sutherland and Bates, of counsel for the prisoners, received at Salt Lake this telegram from Assistant District Attorney D. P. Whedon, at Beaver: "Cannot bring on those trials this term." Next morning, however, Colonel Dame was removed from the Penitentiary by Marshal Maxwell, and hurried off to Beaver, and on the 5th his attorneys started for the same place to secure as early a date as possible for the trial. It was expected, and so announced in the newspapers, that all the defendants not arrested would voluntarily appear in court and request a hearing of the case.*

In conformity with an order of court, Lee, on April 6th, was brought to plead to the indictment, and to its reading responded "Not Guilty." Colonel Dame was called for arraignment on the 7th, but when the U. S. Deputy Marshal, Arthur Pratt, looked for him in the jail he was not there. A flurry of excitement followed, and at the request of Marshal Maxwell the court issued an order to Sheriff Hunt, of Beaver County, to show cause why he had released the prisoner. Mr. Hunt proved to the court that Dame had never been in his custody, and in fact had been practically set free by the U. S. Marshal. During this attempt to punish the Sheriff for the shortcomings of the Marshal, Dame was quietly eating his breakfast at the prisoner's boarding house opposite the jail, to which he returned after finishing his meal, and was found on the deputy's next appearance there. Though left without a guard, he had no intention of escaping or evading trial.

Colonel Dame's attorneys made strenuous efforts to have his case

* This course would probably have been pursued at that time, had it not been for the dilatory methods of the prosecution, which promised to keep the accused in prison, without trial, for an indefinite period.

heard, but the prosecuting officers refused, and on April 14th he was returned to the Penitentiary. On this date John D. Lee's attorneys made a similar attempt in his behalf, but were unable to accomplish their purpose. The officers for the Government alleged that they had not yet procured all the necessary witnesses, one of the desired parties being Klingensmith, who, it was said, could not be found. It was also stated that the officials had no funds to pay jurors, officers or witnesses. For these reasons the cases were continued till the next term of court. Five days after the postponement Lee had an epileptic fit, as a result of his rapidly declining health, caused by the change from an active outdoor life to close confinement in the Fort Cameron prison.*

It was finally determined that Lee's trial should take place in July, and on the 12th of that month the Second District court room at Beaver was crowded with spectators. The Territorial newspapers and leading journals East and West had special representatives present, in anticipation of developments of an unusually interesting and sensational character. An incident on this occasion illustrates the bearing of Judge Boreman toward attorneys engaged on that side of a case to which his own predilections were opposed. Ex-District Attorney Bates was one of the counsel for Lee and Dame. Several months prior to the date given, he had been communicated with by some of the parties jointly indicted with them, but not arrested, and had been requested to proffer to the court security for their appearance for trial. He had done this, when to his astonishment he was sharply reprimanded by the Judge. In vain the attorney apologized and protested that, in delivering the message and making the tender

* On May 31st, Lee was removed from Fort Cameron to the Beaver County jail, to curtail expenses. On July 28th, a search of his cell resulted in the discovery of a saw file, butcher knife, hatchet, twenty feet of rope, and other articles to aid in an escape. In order to guard against any attempt to break jail, Lee was placed in irons and all visitors refused admission. His wife Emma called to see him, but the jailer, William Thompson, required her to leave the building. The jailer asserted that she made a savage assault upon him with a rock.

of bail, as requested, he had no knowledge of impropriety or intention of disrespect to the court. Judge Boreman suspended him from practicing as an attorney in the Second District, and issued an order for him to show cause why the disbarment should not be permanent.* To this the attorney had filed an answer disclaiming any thought or design of contempt or disrespect for the court or Judge.

All this had occurred, as stated, several months prior to the 12th of July. On that day Mr. Bates solicited the indulgence of the court while he read an affidavit, but the Judge stopped him abruptly with the remark, "Mr. Bates, you are not authorized to appear in this court until you are permitted to do so." To this the response was, "I beg your honor's pardon. I did not think of that." Judge Boreman sharply rejoined, "I think you ought to have known it." A few moments later he relentingly informed Mr. Bates that he could read the affidavit. This, however, the attorney declined to do. Nothing further in the Lee and Dame case, or the Bates affair, was done on that or the succeeding day, but on the 14th Judge Boreman delivered himself of an address, strongly censuring Mr. Bates for his "very improper application" in behalf of "alleged criminals fleeing from justice," an application which he (the Judge) "supposed no sane man would make,"—but stating that in view of the old age of the defendant, the fact that this was "his first offense in this court," and his "sworn disclaimer of any and all improper motives," etc., the court, in spite of the "very great provocation," would "lean to the side of mildest mercy" and not disbar the defendant, though a fine of fifty dollars would be entered up against him. It is understood that the fine imposed by Judge Boreman remained unpaid, and that Mr. Bates entertained such contempt for His Honor that he refused to take any steps toward his own reinstatement.

On the 14th of July the town of Beaver was thrown into com-

*The unusual and uncalled for severity of Judge Boreman in this matter doubtless had its effect in causing the unarrested defendants to change their design of coming into court, as it gave them to understand that the Judge was specially hostile before learning the testimony of the witnesses, and that his attitude would prejudicially affect their interests.

motion by the report that John D. Lee had decided to make a full statement of what he knew concerning the Mountain Meadows massacre, and these tidings were at once flashed to every part of the Union. Mr. W. W. Bishop, one of Lee's attorneys, being interviewed by a representative of the Beaver *Enterprise* in relation to the matter, made the following statement:

On coming here some days ago we found ourselves in a peculiar position as regards this trial. We found that scarcely any of the witnesses we had summoned were here; some could not be found, others would not come. We found that a feeling of general disapprobation existed in regard to Lee and the course he had taken; that everyone we asked in regard to him gave us the one reply, 'If he is guilty let him suffer, we have no desire to interfere;' that so strong is the general belief that he is a guilty, blood-stained man, that but very few seem to desire aught else but that he shall be punished. We find that the prosecution have now in this city and on the way here an array of witnesses and a mass of testimony which are overwhelming, and, though we have not been idle by any means, we have failed in this respect. There seems to be a fixed determination on the part of all—even those who professed to be Lee's friends at one time—to let him be sacrificed that justice might be appeased and the clamor of the people stilled forever. Even I, myself, who not long since was met by everyone with the greatest of courtesy and hospitality, have almost been frozen in the last few days by the way parties would meet me and merely say "Good day," and pass on, as if they did not wish to be conspicuously impolite, but could not afford to be seen talking with me upon the street. We find every avenue to a fair trial barred, our client deserted and alone, without even the means to pay us for our labors, neither Mr. Hoge* nor myself having received a cent; but we will not go back on him. * * * You can probably understand some of the difficulties we have to encounter in the matter. Things have taken such a shape that the only hope I can see for my client is in taking advantage of the means of escape which the government holds out to him—and turn state's evidence. I have been talking with him seriously and have advised this step. Then the whole truth will come out, the mystery will be unraveled, and the stain that has blackened Lee's reputation for more than seventeen years will be effaced.†

* E. D. Hoge, Esq. of Salt Lake City was one of Lee's counsel at this time.

† Lee actually made a statement concerning the massacre at this time. But in the "Life and Confessions of John D. Lee," published after his death by Attorney Bishop, the latter makes no reference to it. He practically denies that such a statement was made, by asserting that all of Lee's confession "was written by him while in prison, and after the jury had returned its verdict of guilty." He also says that "he refused to confess at an early day, and save his own life by placing the guilt where it of right belonged." The truth is that Lee's statement was rejected by the prosecution because it was not sufficiently far-reaching to implicate leading Mormons who were innocent of any complicity in or knowledge of the crime, but whom rabid anti-Mormon Federal officials were eager to proceed against.

On the 17th it was given out that the prosecuting officers were "very undecided whether they will accept Lee's statement, which is now completed, thinking he is not telling the whole truth." A member of the legal fraternity, who was also acting at that time as a special newspaper correspondent, was permitted by the attorneys for the defense to read what Lee had prepared, and stated its effect as follows: "The testimony of John D. Lee, as well as of other important witnesses will entirely refute all charges which have been made against Brigham Young and the leaders of the Mormon Church in Salt Lake City."* Attorney Baskin arrived at Beaver on the evening of the 18th, to conduct the case for the Government.† On the morning of the 19th came the announcement: "The prosecution will not accept Lee's statement, as they expect to prove, by the witnesses already here, some of whom are said to have participated in the massacre, more than he confesses." Klingensmith had arrived at Beaver three days before, and had had an interview with the prosecutor. His offer to turn state's evidence had been accepted. When U. S. Deputy Marshal Cross found him in southern California, he expressed to the officer his willingness to come and testify. He was nominally under arrest, but was really present as a witness and not as a defendant.

In court, the attorneys for the defense entered pleas of abatement, etc., which were overruled. As stated, one indictment was quashed because of a defect, but another and more perfectly framed accusation, found by the same grand jury, was forthwith substituted.‡

* Lee's first statement was never entirely given to the public, though a few short extracts were permitted to be used by the newspapers. All of Lee's manuscript passed into the possession of his attorney, W. W. Bishop, who was strongly antagonistic to the Mormons generally, and to Brigham Young in particular.

† "I was leading counsel in the case," Baskin subsequently informed a Senate committee in Washington.

‡ A movement, somewhat out of the usual order, was made by the defense, who entered before a justice of the peace complaints against some of the more conspicuous witnesses, charging them with complicity in the massacre and other high crimes. War-

Both sides being ready, John D. Lee was placed on trial. It was the 22nd of July, 1875. The attorneys for Colonel Dame urged that the case against their client be heard at the same time, and Lee's counsel wanted Klingensmith also tried, but the prosecution refused to consent to either proposition. For the Lee case there had been summoned one hundred and seven witnesses in behalf of the Government. The defense had but few. The following jurors were sworn to try the issue: Josephus Wade, L. C. Hiester, Paul Price, John Brewer, David Rogers, Isaac Duffin, George F. Jarvis, James C. Robinson, Milton Daley, John C. Dunkin, James Knight and Ute Perkins. The first four were Gentiles, and the remaining eight Mormons.

District Attorney Carey made a lengthy opening speech, stating that the Government expected to prove that the emigrants who were massacred were, upon their arrival at Salt Lake City, refused supplies and "worse treated than they had been treated by the wild Indians;"* that "the barns and granaries were full to overflowing," but all through the settlements on the journey south they could obtain no grain, except thirty bushels of corn from an Indian at Corn Creek, and a small quantity purchased from a man who was subsequently cut off the Church for selling it; that when they were resting at Mountain Meadows, previous to starting across the desert,

rants were issued for persons thus accused, but Marshal Maxwell directed his deputies to prevent, by armed force if necessary, the service of these processes. The attempt to arrest implicated witnesses was abandoned, and the excitement caused by the proceeding subsided.

* The statement has been frequently published that the emigrants had to camp "over Jordan"—on the bank opposite the principal portion of Salt Lake City—because of a feeling of hostility towards them. They did not camp on the Jordan at all, but on Mill Creek, which then ran through the city, on a vacant piece of land now bounded on the north by Eighth South Street and on the east by Fifth West Street. There was no restriction on the sale of supplies to them; but as the harvest was not fully gathered, it being the early part of August, and prices for grain were high in Salt Lake, the emigrants refrained from making large purchases of this commodity, for the reason that they believed they could get it cheaper farther along on their journey, in the settlements of southern Utah.

they were attacked by a large force of Indians, gathered there by John D. Lee, the Indian agent; that when the savages were repulsed messengers were sent to Cedar City asking the whites to render assistance in carrying out the previously arranged plan of destroying the entire emigrant company; that a military order was issued, and a body of militia sent to the Meadows, ostensibly to bury massacred emigrants; that on arrival it was found too hazardous an undertaking to attack the camp of the emigrants, therefore the latter were decoyed out by a flag of truce and induced to surrender their arms, under a promise of protection; that as they were marching along, at a given signal they were assailed by the combined force of militia and Indians, and murdered, only seventeen children, all under eight years of age, being spared; that the bodies of the slaughtered emigrants were stripped by Indians and left unburied, to be preyed on by wild beasts; that on the field of murder John D. Lee directed affairs and afterwards took possession of the emigrants' property, reporting the whole transaction to Brigham Young, who told him not to talk about it, and ordered the property given to the Church; that the commander of the whole southern country, from Fillmore to Arizona, was George A. Smith; that under him William H. Dame commanded the Iron County militia, and next to him Isaac C. Haight and John M. Higbee were over the forces called out to do the bloody work; that by the perfect enforcement of a military order for the massacre, not a single emigrant escaped, though some of them succeeded in getting away from the scene of the butchery and were not overtaken by their murderers for several days.

The taking of testimony then began, the first witness being Robert Keyes. He stated that he was returning from California and passed through the Meadows on the 2nd of October, 1857; he there saw the nude forms of sixty or seventy men, women and children, who had been shot or otherwise killed, and whose bodies had been torn by the wolves. The next witness, Ashael Bennett, testified that in December of the same year he saw many of the skeletons, which had been torn out of their shallow graves by the wolves.

At this point in the trial a *nolle prosequi* was entered in the case of Philip Klingensmith, and he was sworn as a witness. His story was as follows. Some days before the emigrants reached Cedar City he heard that the people had been forbidden to trade with them. On their arrival at Cedar a Mr. Jackson sold them some wheat.* Several of them went swearing about town and created a disturbance, and were taken before John M. Higbee and fined. The emigrants continued on their way and witness heard "hard rumors" about their conduct. At the regular meeting of the local presidency and high council, on the Sunday preceding the arrival of the emigrants, the matter of their attitude toward the settlers and Indians came up. Witness was then acting in the capacity of Bishop of Cedar Ward. He, with I. C. Haight, J. M. Higbee, Laban Morrill, Ira Allen, Wesley Willis and others attended this meeting. A proposition to permit the emigrants to be destroyed was strongly opposed by a number of those present. Klingensmith said that he was among those averse to it. At that time the destruction was intended by Indians, and not by whites. The question was, what would the consequence be if the whites permitted such a thing to take place. The next day, Haight, Higbee, Joel W. White and Klingensmith again met and talked the matter over. Witness said that he again expressed himself in favor of allowing the emigrants to pass through unmolested, and Haight said to him, "You may go with Mr. White over to Painter Creek, [Pinto]. He will tell the people there." The purpose was to pacify the Indians so that the emigrants could get through. Witness and White went as directed, passing the emigrant company at Iron Springs, en route to the Meadows. On their way they met John D. Lee, who inquired, "Where are you going?" to which White responded, "We are going to see that these people get through unmolested." Lee said, "I have something to say in that matter, and will see to it," and passed on toward Cedar.† On their return

* When on the witness stand Mr. Jackson denied the truth of this statement.

† Lee denied that this incident ever occurred, and said that he was with the Indians at the time it was alleged to have taken place. He, however, admits being in Cedar City

from Painter Creek they met Ira Allen, about four miles from where they passed Lee the day before, and he informed them that when the emigrants got to the Meadows their doom was sealed, for John D. Lee had orders from headquarters at Parowan to gather Indians, go around below and destroy the company. Allen also had orders to go to Painter Creek and undo what White and Klingensmith had done.

Klingensmith stated that he and White then went home. About three days afterwards Dan McFarlane came to him from Haight, saying that he had received word from Lee that "they hadn't got along as they anticipated."* Haight had communicated with Colonel Dame, said the witness, and had received orders that, to finish the massacre, they were to "decoy them out, and to spare nothing but small children that could not tell the tale." At the direction of Lee, witness went down town, where he met Major John M. Higbee, who said, "You are ordered out, armed and

during this absence of Klingensmith, and says: "Haight said he had sent Klingensmith and others over towards Pinto, and around there, to stir up the Indians and force them to attack the emigrants." The testimony of all the witnesses acquainted with this transaction, as well as the events which occurred at the time, prove Lee's statement of the errand of Klingensmith and his associate to be incorrect.

* In making this statement, Klingensmith omitted all mention of the proceedings of an entire week. During that time councils were held at Parowan and Cedar City, at which it was determined that the emigrants should be protected from molestation. A few persons suggested that, as the emigrants had declared themselves as enemies, they should be intercepted and treated as such; and in the Cedar councils there were some, notably Klingensmith, who advocated an immediate attack upon the camp. A proposition prevailed that a courier be sent to Governor Young, at Salt Lake City, with dispatches detailing the provocation to hostilities that had been given, noting the Indian desire for revenge, and asking his advice in regard to the situation. Lieutenant Colonel I. C. Haight wrote and forwarded these dispatches by James H. Haslam. He also sent word to John D. Lee to pacify the Indians and keep the emigrants from harm till further orders. When this message reached Pinto, Lee and the Indians had gone to the Meadows, and before it was received there the first attack had been made. (See Vol. I., p. 701.) The witness also failed to relate how two of the emigrants, who had broken through the Indian lines under cover of darkness and were going to the settlements for assistance, were met in the cedars by a party commanded by himself. "Both the emigrants were killed, one of them falling, it is said, by Klingensmith's own hand." (Vol. I., p. 704.)

equipped as the law directs, to go to the Mountain Meadows." He, with a number of others, obeyed and went as militia, arriving at Hamblin's ranch, three miles from the emigrants' camp, in the night. There was militia from Washington County, as well as Iron County, there under orders. The men began to find out that all the emigrants were not killed, as had been represented. Then there was a consultation between Lee, Higbee, Hopkins, Allen, Wiley, Klingensmith and a few others who were called aside by Lee, about the instructions that had come through Higbee to Lee, from Colonel Dame at Parowan.* Lee stated that the emigrants were strongly fortified, and Major Higbee replied that they must be got out in any way possible.† Everything was given into Lee's hands to carry out; so he formed the militia, numbering forty or fifty men, into a hollow square, and addressed them on the work that they were expected to perform.‡ There was some murmuring among the men, who asked among themselves what they could do, and the conclusion was that

* Lee, in his second confession, alleges that Higbee said: "Haight has counseled with Colonel Dame, or has had orders from him to get all of the emigrants out of the way. None who are old enough to talk are to be spared."

† It is also asserted by Lee, in his published confession, that Higbee handed him a written order from Lieutenant-Colonel Haight, in which he, Lee, and those with him were directed to decoy the emigrants out of their stronghold and kill all that could talk. He says these were "the orders of our military superior, that we were bound to obey."

‡ This was on the morning of the fateful day of the massacre—Friday, September 11th. "There is no doubt that until he [Klingensmith] reached the Meadows the fatal order for the massacre had not been received. When he arrived he conferred with the leaders, and then for the first time was there talk as to the plan of attack. He brought encouragement and strength to those, if any there were who were bent upon destroying the company—which had been his own plan in all the councils held at Cedar—and he undoubtedly gave the impression that the superior officer of the militia had given orders to that effect. Higbee, who as major of battalion was in command of militia on the ground, was of equal rank with Lee, though much younger in years. Lee was also major, but at this time devoted himself more especially to the Indian forces. It was Lee and Klingensmith, however, who seemed to have the direction of affairs, and it is not unlikely that Klingensmith, by his ardor and representations—he was the latest arrival from Cedar—had more influence in the subsequent councils than anyone else." (Vol. I., p. 705.)

they could not help themselves, but must obey orders as soldiers. They then marched out, as commanded, and waited while a flag of truce was sent to the emigrant camp. Lee had a long conference with a man from the camp after which the emigrants came out, the children, wounded persons and arms being in the baggage wagons; the women walking next, and the men last. The men marched alongside of the militia, in single or double file, and the women and wagons were a short distance ahead. They had gone two hundred yards or more when the order was given to "Halt!" This was immediately followed by the command "Fire!"

Klingensmith went on to testify that he was in the militia ranks at the time when the order to halt and fire was given. "Every man fired as far as I know. I fired once," said he. He was about twenty feet from the nearest emigrant.

In response to an inquiry by the defendant's counsel, "You first shot over his head, I presume?" the witness responded, "I didn't think I did. I would not swear that I hit him or not. I might have hit him."

Question: "Didn't you make an effort to hit him?"

Answer: "Of course I did; obeying orders to the fullest capacity."

The witness proceeded with his narrative, saying that he thought there were about fifty men among the emigrants. He further said that Higbee directed him to take charge of the children. One of these was wounded severely, and subsequently died. The witness did as he was commanded, and collected seventeen children, whom he afterwards distributed with families in Cedar City and other places. By instruction of Haight, he also took charge of some of the property of the emigrants which the Indians had not carried off. He did not take it, however, in the capacity of Bishop, but only to store it, awaiting orders. This property was afterwards disposed of at auction. It was arranged that John D. Lee should report the whole transaction, as directed by Isaac C. Haight, to Governor Young, and Lee informed the witness, in the following October, that he

had done so.* After this, the witness, with John D. Lee and Charles Hopkins, had called upon the Governor [Brigham Young] and the latter directed Lee, as Indian agent and interpreter, to take charge of the property left by the emigrants. Nothing was said at that time of the circumstances of the massacre; as the Governor remarked that he did not wish to hear it talked of. At the time of the massacre "the hills were full of Indians" who took part in the butchery.

In response to a question by Mr. Baskin: "Do you know whether any of those orders that led to that massacre emanated from George A. Smith, and if so state what it was?" Klingensmith said: "No, sir; not that I know of."

The witness admitted that he received and kept a span of mules and two wagons which had belonged to the emigrants. He had resigned the office of Bishop of Cedar Ward in 1858 or 1859, and moved away shortly afterward. About 1870 he heard that he had been cut off from the Mormon Church. Before he became a resident of Nevada he had only stated the facts regarding the massacre to one man—Charles Dalton, Lee's son-in-law. He had not conversed on the subject with Jacob Hamblin, nor did he, when Hamblin said that he would rather Buchanan should hear of all the men in Utah being killed than give his consent to the killing of women and children, reply, "If you break out that way around the mouth, we will have to take care of you." During the consultations at the Meadows he had not raised his voice against the proposed slaughter because he "had no authority to do so." He denied, however, having advocated the commission of the deed.

Such was the statement of the witness Klingensmith. In it the inconsistency which usually marks efforts of criminals to shield themselves at the expense of others is glaringly manifest. Here was

* Whether or not Lee acted under Haight's advice in reporting to the Governor, it is certain that he did not relate the facts of the case. He placed the blame entirely upon the Indians, without intimating that any white man was connected with the crime. He explained the presence of the surviving children in the settlements by saying that the Indians had sold them to the whites.

an individual who, because he "had no authority," was too much overawed to raise his voice in protest against the perpetration of a soul-sickening slaughter, not only of men, but of women and children. Yet his obscurity did not preclude his presence in convocations of the most influential men at Cedar City, and again in the councils of the leading spirits at Mountain Meadows; nor did it prevent him from being among the foremost spokesmen on each occasion. His prominence was such that he was given charge of the surviving children, apportioning them among the people, and he also gathered into his possession that portion of the emigrants' baggage which had not been carried off by the savages. In an ecclesiastical capacity, the majority of the men who composed the body of militia at the Meadows were under his supervision, and he had heard among them murmurings of dissatisfaction which only required a word of encouragement from him to break forth in such volume as to change the entire situation. His whole course showed that he was fully *en rapport* with the murderous scheme, if indeed he was not its chief promoter.* Careful examination of the deplorable event at Mountain Meadows makes it clear that if any man within reach of the law officers ought to have been prosecuted with John D. Lee, that man was Philip Klingensmith.†

Joel W. White was the fourth witness. He had been brought to Beaver by the notorious Bill Hickman, who had been made a special U. S. Deputy Marshal. White testified that he and Klingensmith had taken the message to Richard Robinson, at Painter Creek, to

*James Pearce, a witness who resided in Washington County, testified that he regarded Klingensmith as "one of the officers, as he seemed to have a good deal to say about it frequently;" that "he was the biggest chief there."

†Statements such as those made by Klingensmith, Lee and others have been the basis of charging the massacre to men "high in authority" among the Mormons, yet the highest officials which these accounts, in their broadest scope, can be made to implicate are Dame and Haight, Colonel and Lieutenant-Colonel of the Iron County militia, and the former is only included by hearsay testimony. Lee says that he received written instructions from Haight, and heard the latter say that his orders were from Colonel Dame—an assertion which the latter denied.

pacify the Indians. He related the incident of meeting Lee the same as Klingensmith, but did not remember seeing Ira Allen on the return trip. After he had been home several days he was called out as a militia-man by I. C. Haight, and ordered to the Meadows with a baggage wagon. He was there two days before the massacre, camped a short distance from, and out of sight of the emigrants. According to his testimony, Klingensmith, Lee and Higbee were the most prominent men in the movements at the Meadows.* The witness related the circumstances of the killing, as previously given, but said that he took no part therein, as he had no gun.

Mrs. Annie Elizabeth Hoag, Thomas T. Willis, John H. Willis, William Mathews, William Young, Samuel Pollock, John Sherratt, John W. Bradshaw, Robert Kershaw, E. C. Mathews, James Pearce, E. W. Thompson, John M. McFarlane, Frank King, Isaac Riddle and William Roberts were examined as witnesses and the prosecution rested.† No information beyond that given in the published account of the massacre (Volume I) was elicited.

The statement of what the defense expected to prove was made

* This statement was corroborated by the other witnesses who were on the ground, with the exception of Klingensmith.

† Samuel Pollock stated that he overlooked the proceedings of the massacre from nearly a mile distant. He estimated that from four to five hundred Indians, beside the whites, were engaged in the work. After it was all over he went down to the place and helped bury the dead, whom he thought numbered about one hundred. The ground was so hard that it was impossible to dig it, so the burying party put most of the bodies in a wash or gully, and the others in some depressions in the ground, and covered them with about four feet of dirt.

Robert Kershaw testified that George A. Smith preached at Beaver that the people were not to sell the Arkansas emigrant company grain, as they might need it for themselves, because of the approach of Johnston's army. He also said that a man named John Morgan was cut off the Church by Bishop P. T. Farnsworth, two weeks after the emigrant company passed through, for trading a cheese to them. Bishop Farnsworth testified that George A. Smith made no reference to the emigrants, as he was not aware, when in Beaver, of their presence in the Territory, but advised the people not to feed grain to their animals or to sell it for that purpose, as they were likely to need it. He also stated that John Morgan was never cut off the Church, or dealt with in any way, for trading with the emigrants; on the contrary, when he left Beaver, Bishop Farnsworth gave him a recommend of full fellowship and good standing in the Church.

on July 29th, by Attorney Wells Spicer. He said that the emigrants, by their own misconduct in poisoning cattle and springs of water, so enraged the Indians that from Corn Creek down runners were sent out, gathering help from the various tribes, till at the Meadows the savages numbered four or five hundred warriors, who there attacked the company; that on the route thither the whites sold the emigrants supplies and treated them well; that Lee held no military or Church office, but was merely a farmer to the Indians;* that on the ground he tried to protect the emigrants, and wept when the massacre was proposed; that Haight, Klingensmith and Higbee formed the plot to kill the emigrants, and that what was done by the other white men there was through obedience to the military authority of the three persons named, and from fear of death at the hands of the Indians if the small force of militia present did not join in the attack on the emigrants.

Samuel Pollock and William Young, who had been witnesses for the prosecution, were called by the defense, but nothing new was elicited.

Jesse N. Smith stated that at Parowan he sold the emigrants flour and salt, and urged them to purchase more, but they did not desire to do so. He traveled in company with George A. Smith and others to Fillmore, and knew that no instructions were given not to trade with the emigrants; but the people were advised not to feed their grain to animals or to sell it for that purpose, as they would probably need all that they had. A few days after the company of emigrants passed Parowan, the witness heard that they had been attacked by Indians, and was sent by Colonel Dame to ascertain if it was true. He went as far as Pinto, where the rumor was verified, and returned and reported to Colonel Dame. This was on Friday, September 11th, and he afterwards learned that it was the day of the massacre.

* Lee, according to his own statement, was at the time of the massacre Probate Judge of Iron County, and "president of civil and local affairs" in the Harmony district (which included the Meadows) but had no control in Church matters.

Silas S. Smith corroborated the testimony of the previous witness in regard to George A. Smith's instructions, and stated that he (the witness) was sent by Colonel Dame; with a small body of men, to relieve Duke's company of emigrants when they were attacked by Indians, and that he did so.* This was immediately succeeding the report made to Colonel Dame by Jesse N. Smith. The witness saw the dead ox left at Corn Creek by the Fancher company, and heard one of the party inquire whether the Indians would eat it.

Elisha Hoops testified as to the poisoning of the ox left at Corn Creek. He saw a German doctor with the Fancher company make three incisions in the animal, and pour the contents of a vial therein. Some Indians came up soon afterward and the ox was sold to them for two buckskins. They flayed it, but he did not think at the time that they intended to eat the flesh. He also gave evidence of that company of emigrants leaving small bags of poison in the springs. A boy named Robinson drank the water from one spring, and died from the effects. The Indians afterwards told witness that some of their number met their death in the same way and from the same cause.

Philo T. Farnsworth, John Hamilton, Sr., John Hamilton, Jr., Richard Robinson, Samuel Jackson, Sr., and John M. McFarlane gave their testimony, which was merely corroborative of the statements of the others, no additional facts of importance being brought out.†

The defense offered in evidence the affidavits of Presidents Brigham Young and George A. Smith, who were in too feeble health to attend court, but the prosecution objected, and Judge Boreman refused to permit their introduction.‡

* See page 693, Vol. 1.

† Richard Robinson was Indian overseer at Pinto, and denied ever receiving the letter or message which Klingensmith and White claimed to have carried. Several days after the alleged date of the delivery by these witnesses, he received, by another messenger, a letter from Haight for Lee, and forwarded it to the latter at the Meadows.

‡ These affidavits were used by the prosecution at the second trial, in September, 1876.

The jury then listened to the arguments of the attorneys. The speech of Mr. Baskin was a bitter attack upon the Mormon people, whom he alleged to be responsible for the delay in taking up the Mountain Meadows massacre, because "Mormons would not punish Mormons for such crimes."* He declared that Mormons "gave up all manhood, all individuality when they entered the Endowment House." He gave the jurors to understand that the Government did not anticipate conviction, and charged a failure in that respect to the religion of the majority.

The case was submitted on the 5th of August, and on the afternoon of the 7th the jurors were discharged, having failed to agree upon a verdict. They had stood nine for acquittal and three for conviction.

So closed the first trial of John D. Lee. Its failure was due to the fact that the prosecution of the case was improperly conducted. Instead of an action to punish the guilty, it was an effort on the part of the U. S. District Attorney and his coadjutors to bring within the shadow of an awful crime the leading authorities of the Mormon Church.† In the vain attempt to accomplish this object they had deliberately released a self-confessed assassin, one of the chief promoters and participators in the terrible tragedy. There is little doubt that the status of this latter-day Barrabas, as an apostate

* John D. Lee at his second trial was convicted of murder in the first degree by a jury composed entirely of Mormons.

† The Salt Lake *Tribune*, the mouthpiece of Utah anti-Mormonism, openly avowed the purpose of the prosecution in the following comment upon Lee's first confession, the one rejected by the District Attorney and his associates: "The prosecuting officers, in dealing with this great crime, were less desirous to convict and punish the prisoner than to get at the long concealed facts of that case. The impression that there was 'some person (or persons) high in the estimation of the people' at the bottom of the affair had grown to be a settled conviction; and as Lee had been a subordinate actor in the massacre it was thought that the ends of justice would be attained by releasing this man if he was honest in his avowed resolution to tell it all." When the second trial of Lee came on in 1876, the *Tribune* said: "There was this peculiarity in the trial of last year—the conviction of the prisoner was not so much an object with the prosecution as the procurement of such testimony as would fix the crime of this wholesale assassination upon men higher up in the Church."

Mormon, full of bitterness and rancor against his former brethren, secured for him, quite as much as his highly-colored testimony, immunity from punishment. His harrowing tale of blood, though it purchased his own safety, utterly failed to fasten guilt upon the fore-ordained victims of anti-Mormon malice.

CHAPTER XXIX.

1875-1877.

JOHN D. LEE'S SECOND TRIAL—A CHANGE IN THE OFFICES OF U. S. DISTRICT ATTORNEY AND MARSHAL—SUMNER HOWARD'S SENSIBLE SPEECH—"I HAVE NOT COME TO TRY BRIGHAM YOUNG AND THE MORMON CHURCH, BUT JOHN D. LEE"—THE FACTS CONCERNING THE MOUNTAIN MEADOWS MASSACRE DETAILED BY EYE-WITNESSES—AFFIDAVITS OF PRESIDENTS BRIGHAM YOUNG AND GEORGE A. SMITH—OTHER DOCUMENTARY EVIDENCE—LEE'S CONFESSIONS—HE IS CONVICTED OF MURDER IN THE FIRST DEGREE—JUDGE BOREMAN'S UNWARRANTABLE ASSAULT UPON THE MORMON LEADERS—LEE'S EXECUTION AT MOUNTAIN MEADOWS.

IMMEDIATELY after the close of the Lee trial the prisoner was taken to Salt Lake City and lodged in the Penitentiary. Continued efforts were made for the apprehension of the other persons indicted. On September 12th of this year—1875—the houses of John Macfarlane and W. H. Branch, at St. George, were searched by deputy marshals for Haight and Higbee, but they were not found. George Adair, Jr., was arrested near Richfield on the 1st of November, and placed in jail at Beaver.*

* About this time a petition dated at Beaver, Sept. 1st, and signed by a considerable number of Gentiles, was received by Governor Emery. It asked that he use his influence to prevent the removal of any troops from Fort Cameron, (one company of them had been ordered elsewhere,) and among the reasons for this request alleged that the late trial of John D. Lee was considered as persecution of the Mormon people and an attempt to overthrow the Mormon Church, and that were it not for the presence of the military at this post, such feelings and hatred as were every day manifest would culminate in overt acts of rebellion against the civil authorities representing the national government, and the courts would be powerless to execute the laws. Said the petitioners: "The Indians are cajoled and baptized into the Mormon Church and told that they are 'battle-axes of the Lord,' many of them were encamped about this place during the trial of Lee, and on several occasions inquired when the Mormons and 'Merics' were going to war. The very fact that we cannot understand all the Indian movements, concurring with other events, such as the trial of John D. Lee, makes our suspicion all the stronger, and indeed so as to appeal to those in authority to have their actions closely and persistently watched by

The Lee and Dame cases were passed at the September term of court, owing to "lack of funds" for the expenses of the prosecution. The Grand Jury, in December, made a report which stated that a searching investigation revealed the fact that, while little or nothing had been paid out, the Marshal's books, by false entries, represented unpaid accounts as settled; and that out of \$13,200 allowed for the expenses of the court at Beaver, only about eight thousand dollars had been in any way accounted for. General Maxwell explained that the \$13,200 had not been intended for the Second District Court expenses alone, but for the whole Territory, and he maintained that it had been properly expended. A letter from the U. S. Attorney-General, Edwards Pierrepont, however, stated that the amount was "to defray the expenses of the United States court at Beaver City."* Maxwell was removed from office early in the following February, and Colonel William Nelson, who had been editor of the *La Crosse Republican Leader*, was appointed his successor, assuming the duties of the position on the 15th of March.†

the government. A large number of Navajoes were recently prevented from crossing the Colorado River by the Indian agents. Over three hundred Utes and Piutes were recently baptized into the Mormon Church. * * * At the present time several Mormon missionaries are preaching to the Indians in Arizona."

It is perhaps needless to say that most of the foregoing statements were malicious falsehoods. When Governor Emery applied in the following May for two companies of troops for Beaver, the *Square-Dealer*, a non-Mormon paper published there, made this comment: "It is not our purpose to quarrel with the Governor on the soldier proposition. They are a moneyed institution, and the Lord knows we are not going to object to an increase of that article. When Cameron had four full companies of soldiers the citizens of Beaver had money, and the newspaper business was a flourishing one. If anybody imagines we are opposed to seeing good times again; they have mistaken us—that's all. Send on your soldiers, Governor Emery, only Cameron will take four companies instead of two."

* The crookedness in the Marshal's office was exposed in the Second District by U. S. Deputy Marshal Jerome B. Cross, and in the Third District by U. S. Deputy Marshal Arthur Pratt. There was no imputation of dishonesty as to General Maxwell himself. The accusations were against some whom he employed in his office, and who, it was alleged, took advantage of his loose manner of conducting business.

† On March 14th, the day of Colonel Nelson's arrival at Salt Lake City, seven of the most hardened convicts in the Penitentiary made an assault on the Warden, Captain

The Mountain Meadows case was again called up in court at Beaver on the 8th of May, 1876, but was postponed till the September term. The defendants under arrest—Dame, Lee and Adair—were released on bail, in the respective sums of twenty, fifteen and ten thousand dollars. One more was added to the list of those in custody, by the arrest, at St. George on August 28th, of Elliott Wilden.

The second trial of John D. Lee began before Judge Boreman, at Beaver, on September 14th of that year. There had been a change in the office of U. S. District Attorney by this time and Sumner Howard now filled the position; Presley Denny was associated with him as assistant. The attorneys for the defendant were J. C. Foster, Wells Spicer and W. W. Bishop. Of the witnesses placed on the stand, Joel W. White was the only one who had testified at the former trial. Klingensmith was at Beaver, but was seldom seen and avoided conversation or inquiry. He is said to have looked dejected and worn. When the case was concluded he departed for his new home at Ehrenberg, Arizona. He never again returned to Utah.

In the opening statement of the case Mr. Howard made the sensible observation that he had not come to try Brigham Young and the Mormon Church, but to proceed against John D. Lee for his personal actions. The Government, he said, proposed to prove that Lee, without any authority or advice from any council or officer, but in direct opposition to the feelings and wishes of the leaders of the Mormon Church, had gone to the Mountain Meadows and assumed command of the Indians, whom he induced to attack the emigrants, in which movement he was repulsed; that he sent word to various settlements for assistance, to some saying that the emigrants were all killed and needed to be buried, to others that they required protection and to still others that an attack on the company had been

Bergher, whom they mortally wounded. They then succeeded in making their escape, but were afterwards retaken. On a subsequent occasion the murderers of Captain Bergher succeeded in breaking from the prison and eluding all efforts for their recapture.

made by the Indians, and it needed men to draw them off; that these men went in good faith to perform a humane act; that he arranged the scheme to draw the emigrants out of their camp and to have them fired upon by Indians and some of the whites; that he killed at least four of them himself, and that he took a part of their property for his own use.

Mr. Bishop's statement for the defense was mainly denunciatory of the character of the evidence about to be introduced. He claimed that the part Lee took in the massacre was under compulsion, and that other parties were the instigators and were responsible for the crime.

For the Government, Mr. Howard presented the following documents, which were admitted in evidence.*

TERRITORY OF UTAH, }
 BEAVER COUNTY, } ss.

IN THE SECOND JUDICIAL DISTRICT COURT. THE PEOPLE, ETC., vs. JOHN D. LEE, WILLIAM H. DAME, ISAAC C. HAIGHT *et al*, INDICTMENT FOR MURDER, SEPTEMBER 16th, 1857.

AFFIDAVIT OF BRIGHAM YOUNG.

Questions to be propounded to Brigham Young on his examination as witness in the case of John D. Lee and others, on trial at Beaver City, Utah, this 30th day of July, 1875, and the said answers of Brigham Young to the interrogatories hereto appended were reduced to writing, and were given after the said Brigham Young had been duly sworn to testify to the truth in the above entitled cause, and are as follows:

First.—State your age, and the present condition of your health, and whether in your present condition you could travel to attend in person at Beaver, the court now sitting there? If not, state why?

Answer.—To the first interrogatory he says: I am in my seventy-fifth year. It would be a great risk, both to my health and life for me to travel to Beaver at this present time. I am, and have been for some time, an invalid.

Second.—What offices, either ecclesiastical, civil or military, did you hold in the year 1857?

* The first two had been offered by the counsel for the defense at the first trial, but the Court then ruled them out. When they were presented on this occasion, Mr. Bishop said to the Court: "In the former trial we came near being placed in jail for offering the same papers."

Answer.—I was the Governor of this Territory, and ex-officio Superintendent of Indian affairs, and the President of the Church of Jesus Christ of Latter-day Saints, during the year 1857.

Third.—State the condition of affairs between the Territory of Utah and the Federal Government in the summer and fall of 1857?

Answer.—In May or June, 1857, the United States mails for Utah were stopped by the Government, and all communication by mail was cut off; an army of the United States was *en route* for Utah, with the ostensible design of destroying the Latter-day Saints, according to the reports that reached us from the East.

Fourth.—Were there any United States judges here during the summer and fall of 1857?

Answer.—To the best of my recollection there was no United States Judge here in the latter part of 1857.

Fifth.—State what you know about trains of emigrants passing through the Territory to the West, and particularly about a company from Arkansas, *en route* for California, passing through this city in the summer or fall of 1857?

Answer.—As usual, emigrant trains were passing through our Territory for the West. I heard it rumored that a company from Arkansas, *en route* to California, had passed through the city.

Sixth.—Was this Arkansas company of emigrants ordered away from Salt Lake City by yourself or anyone in authority under you?

Answer.—No, not that I know of. I never heard of any such thing, and certainly no such order was given by the acting Governor.

Seventh.—Was any counsel or instruction given by any person to the citizens of Utah not to sell grain, or trade with the emigrant trains passing through Utah at that time? If so what were those instructions and that counsel?

Answer.—Yes, counsel and advice was given to the citizens not to sell grain to the emigrants to feed their stock, but let them have sufficient for themselves if they were out. The simple reason for this was that for several years our crops had been short, and the prospect was at that time that we might have trouble with the United States army, then *en route* for this place; and we wanted to preserve the grain for food. The citizens of the Territory were counseled not to feed grain even to their own stock. No person was ever punished or called in question for furnishing supplies to the emigrants, within my knowledge.

Eighth.—When did you first hear of the attack and destruction of the Arkansas company, at Mountain Meadows, in September, 1857?

Answer.—I did not learn anything of the attack or destruction of the Arkansas company until sometime after it had occurred,—then only by a floating rumor.

Ninth.—Did John D. Lee report to you at any time after this massacre what had been done at that massacre, and if so what did you reply to him in reference thereto?

Answer.—Within some two or three months after the massacre he called at my office and had much to say with regard to the Indians, their being stirred up to anger and threatening the settlements of the whites, and then commenced giving an account of the

massacre. I told him to stop, as from what I had already learned by rumor I did not wish my feelings harrowed up with a recital of the details.*

* Lee says, in his published confession, "When I arrived in the city I went to the President's house and gave to Brigham Young a full, detailed statement of the whole affair, from first to last—only I took rather more on myself than I had done." What Lee actually told Governor Young was in accord with the agreement made by the leaders of the massacre on the field, when they feared Colonel Dame would report the whole truth. In the private journal of Wilford Woodruff, under date of September 29th, 1857, it is noted that John D. Lee called on the Governor, and in the presence of Mr. Woodruff related "an awful tale of blood. He told how a company of emigrants, numbering about one hundred and fifty men, women and children, had poisoned beef for the Indians, and springs of water, and been guilty of other wrongs, till the Indians became enraged, surrounded them on the prairie, and fought them five or six days until all the white men, about sixty in number, were killed. Then the savages rushed upon the emigrants' corral and killed the women and children, except about ten of the latter, whom they sold to the whites. Lee said that when he found it out, he took some men and went and buried the bodies, which had been stripped and left on the ground." John W. Young, who was then a messenger boy in the Governor's office, says he was in the room and heard Lee tell this story. Judge Aaron F. Farr, of Ogden, testified as follows on this point: "I was personally acquainted with John D. Lee, having known him when a boy in Nauvoo. In the fall of 1857 he came to Salt Lake City from his home in Iron County, shortly after the massacre, to report to Brigham Young how it occurred. On the same day that he reported to President Young in the morning, he came to my residence on West Temple Street, opposite Bishop Hunter's place, in the afternoon, and in a conversation with me, lasting about an hour and a half, detailed every particular of the horrible occurrence. He placed the whole blame of the massacre on the Indians. He stated that he and his associates had done all in their power to protect the emigrants, but were totally helpless in their object. He seemed very earnest while he was telling me this story, and at intervals wept bitterly. I asked him if he had informed President Young of these particulars, and he answered me that he had seen President Young that same morning, and had related to him the circumstances as he had told them to me." President Woodruff says that when, in 1870, Apostle Erastus Snow stated to President Young that there was strong evidence that Lee was personally implicated in the massacre, President Young was very much surprised, and declared that if it was true, John D. Lee had lied to him. He had the matter investigated, and Lee was cut off the Church. Isaac C. Haight was also cut off for not preventing the crime. Apostle Erastus Snow says he began to learn the facts, little by little, in 1861 to 1863, and, when, by 1870, he had become fully satisfied that Lee had taken a direct hand with the Indians, he communicated the facts to President Young, who expressed astonishment and wondered how and why the truth had been so long concealed from him. He ordered an investigation, which was made by Erastus Snow and Bishop L. W. Roundy, of Kanarra, and which resulted in the excommunication of Lee, with an order that he should never again be admitted to the Church. Haight was also expelled for failing, as his superior officer in the Church, to restrain Lee, or to take prompt action against him.

Tenth.—Did Philip Klingensmith call at your office with John D. Lee at the time of Lee making his report, and did you at that time order Smith to turn over the stock to Lee, and order them not to talk about the massacre?

Answer.—No, he did not call with John D. Lee, and I have no recollection of his ever speaking to me or I to him concerning the massacre, or anything pertaining to the property.

Eleventh.—Did you ever give any directions concerning the property taken from the emigrants at the Mountain Meadows massacre, or know anything as to its disposition?

Answer.—No. I never gave any directions concerning the property taken from the company of emigrants at the Mountain Meadows massacre, nor did I know anything of that property or its disposal; and I do not to this day, except from public rumor.

Twelfth.—Why did you not, as Governor of Utah Territory, institute proceedings forthwith to investigate that massacre and bring the guilty authors to justice?

Answer.—Because another Governor had been appointed by the President of the United States, and was then on the way here to take my place, and I did not know how soon he might arrive, and because the United States judges were not in the Territory. Soon after Governor Cumming arrived, I asked him to take Judge Cradlebaugh, who belonged to the southern district, with him, and I would accompany them with sufficient aid to investigate the matter and bring the offenders to justice.*

* In a letter written to Secretary Belknap, at Washington, under date of May 21, 1872, President Young said: "In 1858, when Alfred Cumming was Governor of Utah Territory, I pledged myself to lend him and the court every assistance in my power, in men and means, to thoroughly investigate the Mountain Meadows massacre, and bring if possible, the guilty parties to justice. That offer I have made again and again, and although it has not yet been accepted, I have neither doubt nor fear that the perpetrators of that tragedy will meet their just reward. But sending an armed force is not the means of furthering the ends of justice, although it may serve an excellent purpose in exciting popular clamor against the Mormons. In 1859, Judge Cradlebaugh employed a military force to attempt the arrest of those alleged criminals. He engaged in all about four hundred men, some of whom were civilians, reputed gamblers, thieves and other camp followers, who were doubtless intended for jurors (as his associate Judge Eccles, had just done in another district); but these accomplished absolutely nothing further than plundering hen roosts and rendering themselves obnoxious to the citizens on their line of march. Had Judge Cradlebaugh, instead of peremptorily dismissing his grand jury and calling for that military posse, allowed the investigation into the Mountain Meadows massacre to proceed, I have the authority of Mr. Wilson, U. S. Prosecuting Attorney, for saying the investigation was proceeding satisfactorily; and I firmly believe, if the county sheriffs, whose legal duty it was to make arrests, had been lawfully directed to serve the processes, that they would have performed their duty and the accused would have been brought to trial. Instead of honoring the law, Judge Cradlebaugh took a course to screen offenders, who could easily hide from such a posse under the justification of avoiding a trial by court

Thirteenth.—Did you, about the 10th of September, 1857, receive a communication from Isaac C. Haight, or any other person of Cedar City, concerning a company of emigrants called the Arkansas company?

Answer.—I did receive a communication from Isaac C. Haight or John D. Lee, who was then a farmer for the Indians.

Fourteenth.—Have you that communication?

Answer.—I have not. I have made diligent search for it but cannot find it.

Fifteenth.—Did you answer that communication?

Answer.—I did, to Isaac C. Haight, who was then acting President at Cedar City.

Sixteenth.—Will you state the substance of your letter to him?

Answer.—Yes. It was to let this company of emigrants, and all companies of emigrants, pass through the country unmolested, and to allay the angry feelings of the Indians as much as possible.*

(Signed), BRIGHAM YOUNG.

Subscribed and sworn to before me this 30th day of July, A. D. 1875.

WILLIAM CLAYTON, Notary Public.

martial. It is now fourteen years since the tragedy was enacted, and the courts have never tried to prosecute the accused; although some of the judges, like Judge Hawley, have used every opportunity to charge the crime upon prominent men in Utah, and influence public opinion against our community."

*This letter, which was subsequently found, was dated at the "President's Office, Great Salt Lake City, September 10, 1857," and reads as follows: "Elder Isaac C. Haight. Dear Brother:—Your note of the 7th inst. is to hand. Capt. Van Vliet, Acting Commissary, is here, having come in advance of the army to procure necessaries for them. We do not expect that any part of the army will be able to reach here this fall. There is only about 850 men coming. They are now at or near Laramie. A few of their freight trains are this side of that place, the advance of which are now on Green River. They will not be able to come much, if any further on account of their poor stock. They cannot get here this season without we help them. So you see that the Lord has answered our prayers, and again averted the blow designed for our heads. In regard to the emigration trains passing through our settlements, we must not interfere with them until they are first notified to keep away. You must not meddle with them. The Indians we expect will do as they please, but you should try to preserve good feelings with them. There are no other trains going south that I know of. If those who are there will leave, let them go in peace. While we should be on the alert, on hand, and always ready, we should also possess ourselves in patience; preserving ourselves and property, ever remembering that God rules. He has overruled for our deliverance thus once again, and he will always do so if we live our religion and be united in our faith and good works. All is well with us. May the Lord bless you and all the Saints forever. Your brother in the gospel of Christ.

"BRIGHAM YOUNG,"

AFFIDAVIT OF GEORGE A. SMITH.

TERRITORY OF UTAH, }
 Beaver County, } ss.

IN THE SECOND JUDICIAL DISTRICT COURT OF THE TERRITORY OF UTAH. THE PEOPLE, ETC.,
 . VS. JOHN D. LEE, WILLIAM H. DAME, ISAAC C. HAIGHT, *et al.* INDICTMENT FOR
 MURDER COMMITTED SEPTEMBER 16TH, 1857.

George A. Smith having been first duly sworn, deposes and says: That he is aged fifty-eight years; that he is now and has been for several months suffering from a severe and dangerous illness of the head and lungs, and that to attend the court at Beaver, in the present condition of his health, would in all probability end his life.* Deponent further saith that he had no military command during the year 1857, nor any other official position, except that of one of the Twelve Apostles of the Church of Jesus Christ of Latter-day Saints.

Deponent further saith that he never, in the year 1857, at Parowan or elsewhere, attended a council where William H. Dame, Isaac C. Haight or others were present, to discuss any measures for attacking or in any manner injuring an emigrant train from Arkansas or any other place, which is alleged to have been destroyed at Mountain Meadows in September, 1857. Deponent further saith that he never heard or knew anything of a train of emigrants, which he learned afterwards, by rumor, was from Arkansas, until he met said emigrant train at Corn Creek on his way north to Salt Lake City, on or about the 25th day of August, 1857. Deponent further saith that he encamped with Jacob Hamblin, Philo T. Farnsworth, Silas S. Smith and Elisha Hoops, and there for the first time he learned of the existence of said emigrant train and their intended journey to California. Deponent further saith that, having been absent from the Territory for a year previous, he returned in the summer of 1857 and went south to visit his family at Parowan, and to look after some property he had there, and also visit his friends and for no other purpose; and that on leaving Salt Lake City he had no knowledge whatever of the existence of said emigrant train, nor did he acquire any until as before stated.

Deponent further saith that, as an Elder in the Church of Jesus Christ of Latter-day Saints, he preached several times on his way south, and also on his return, and tried to impress upon the minds of the people the necessity of great care as to their grain crops, as all crops had been short for several years previous to 1857, and many of the people were reduced to actual want, and were suffering for the necessaries of life. Deponent further saith that he advised the people to furnish all emigrant companies passing through the Territory with what they might actually need for bread stuff, for the support of themselves and families while passing through the Territory, and also advised the people not to feed their grain to their own stock, nor to sell it to the emigrants for that purpose.

Deponent further saith that he never heard or knew of any attack upon the said emigrant train until some time after his return to Salt Lake City, and that while near Fort Bridger [now in Wyoming] he heard for the first time that the Indians had massacred an emigrant company at Mountain Meadows.

* He died September 1st, 1875.

Deponent further saith that he never, at any time, either before or after that massacre, was accessory thereto; that he never, directly or indirectly, aided, abetted or assisted in its perpetration, or had any knowledge thereof, except by hearsay; that he never knew anything of the distribution of the property taken there, except by hearsay as aforesaid.

Deponent further saith that all charges and statements as pertaining to him, contrary to the foregoing, are false and untrue.

(Signed),

GEORGE A. SMITH.

Subscribed and sworn to before me this 30th day of July, A. D. 1875.

WILLIAM CLAYTON, Notary Public.

The proclamation of Governor Young, dated at Salt Lake City, September 15th, 1857, declaring the Territory under martial law, was placed in evidence, as was also President Young's report as Superintendent of Indian Affairs to Indian Commissioner James W. Denver, at Washington. This report was under date of September 12th, and relates to financial affairs, except complaints that travelers and emigrants had brought on trouble from the Indians by shooting them whenever they made themselves visible: "a practice," Governor Young went on to say, "utterly abhorrent to all good people, yet, I regret to say, one that has been indulged in to a great extent by travelers to and from the Eastern States and California; hence the Indians regard all white men alike as their enemies, and kill and plunder whenever they can do so with impunity; and often the innocent suffer for the deeds of the guilty." The Governor recommended an effort to induce travelers to "omit their infamous practice of shooting them [the Indians] down whenever they happen to see one;" that "the Government should make more liberal appropriations to be expended in presents," as it was "far cheaper to feed the Indians than to fight them;" and that the troops be kept away. Next in the order of evidence came the following:

LETTER OF JOHN D. LEE TO BRIGHAM YOUNG.

HARMONY, WASHINGTON COUNTY, U. T.,

November 20th, 1857.

To His Excellency Governor B. Young, ex-officio and Superintendent of Indian Affairs,

DEAR SIR:—My report under date of May 11th, 1857, relative to the Indians over whom I have charge as farmer, showed a friendly relation between them and the whites, which

doubtless would have continued to increase had not the white man been the first aggressor, as was the case with Captain Fancher's company of emigrants passing through to California about the middle of September last, on Corn Creek, fifteen miles south of Fillmore City, Millard County. The company there poisoned the meat of an ox, which they gave the Pah Vant Indians to eat, causing four of them to die immediately, besides poisoning a number more. The company also poisoned the water where they encamped, killing the cattle of the settlers. This unguarded policy, planned in wickedness by this company, raised the ire of the Indians, which soon spread to the southern tribes, firing them up with revenge till blood was in their path; and as the breach, according to their tradition, was a national one, consequently any portion of the nation was liable to atone for that offense.

About the 22nd of September, Captain Fancher and company fell victims to their wrath, near Mountain Meadows; their cattle and horses were shot down in every direction, their wagons and property mostly committed to the flames.* Had they been the only ones that suffered we would have less cause of complaint; but the following company of nearly the same size had many of their men shot down near Beaver City, and had it not been for the interposition of the citizens of that place the whole company would have been massacred by the enraged Pah Vants. From this place they were protected by military force, by order of Col. W. H. Dame, through the Territory, besides providing the company with interpreters to help to the Los Vegas. On the Muddy, some three to five hundred Indians attacked the company, while traveling, and drove off several hundred head of cattle, telling the company that if they fired a single gun they would kill every soul. The interpreters tried to regain the stock, or a portion of them, by presents, but in vain; the Indians told them to mind their own business, or their lives would not be safe. Since that occurrence no company has been able to pass without some of our interpreters to talk and explain matters to the Indians. Friendly feelings yet remain between the natives and settlers, and I have no hesitancy in saying that it will increase so long as we treat them kindly, and deal honestly toward them. I have been blessed in my labors the last year. Much grain has been raised for the Indians. I herewith furnish you the account of:

| | |
|--|---------------|
| W. H. Dame, of Parowan, for cattle, wagons, etc., furnished for the benefit of the Chief Owanup (ss.); for two yoke of oxen \$100 each, one wagon and chains, \$75, total, | \$275.00 |
| Two cows, \$30 each, for labor \$80, | <u>140.00</u> |
| TOTAL, | \$415.00 |

*The nature of this report harmonizes with a statement made by Lee in his confession, where he says that after the dead bodies of the emigrants had been searched by himself and three others: "Higbee and Klingensmith, as well as myself, made speeches, and ordered the people to keep the matter a secret from the entire world. Not to tell their wives, or their most intimate friends, and we pledged ourselves to keep everything relating to the affair a secret through life. We also took the most binding oaths to stand by each other, and to always insist that the massacre was committed by Indians alone."

| | |
|---|------------|
| P. K. Smith, Cedar City, Iron County, for two yoke of cattle, \$100 each, and No. 2 Weekses band, | \$200.00 |
| One cow, \$35, do. one wagon, \$80, | \$115.00 |
| TOTAL, | \$315.00 |
| | |
| Jacob Hamblin's account, for the benefit of Talse Gobbeth (Tutse Gabits) band, Santa Clara, Washington County, (ss.), two yoke of cattle, \$100 each, do. one wagon, two chains, \$100, . . | \$300.00 |
| Two cows, \$35, total, | 70.00 |
| TOTAL, | \$370.00 |
| | |
| Henry Barney's account for the benefit of Tenquitches' band, Harmony, (ss.), for two yoke cattle, \$100, | \$200.00 |
| do. one wagon, \$100, do. one plow, \$40, total, | 140.00 |
| do. four cows at \$35, each, total, | 140.00 |
| For labor in helping to secure crops, | 40.00 |
| TOTAL, | \$520.00 |
| | |
| For my services for the last six months and for provisions, clothing, etc., | \$600.00 |
| SUM TOTAL, | \$2,220.00 |

From the above report you will see that the wants of the natives have increased commensurate with their experience and practice in the art of agriculture.*

With sentiments of high consideration, I am your humble servant,

JOHN D. LEE, Farmer to Pah Ute Indians.

To Gov. B. Young, ex-officio and Sup't of Indian Affairs.

ABSTRACT FROM REPORT OF BRIGHAM YOUNG.

OFFICE OF SUP'T OF INDIAN AFFAIRS,

G. S. L. CITY, U. T., January 6th, 1858.

Hon. James W. Denver, Commissioner of Indian Affairs, Washington City, D. C.,

SIR:—On or about the middle of last September, a company of emigrants, traveling by the southern route to California, poisoned the meat of an ox that died, and gave it to

* Says John D. Lee in his confession: "I forwarded that letter, and thought I had managed the affair nicely. I put in the expense account of \$2,220, just to show off." He also adds, "I never gave the Indians one of the articles named in the letter. No one of the men mentioned had ever furnished such articles to the Indians, but I did it this way for safety."

the Indians to eat, causing the immediate death of four of their tribe, and poisoning several others. This company also poisoned the water where they were encamped. This occurred at Corn Creek, fifteen miles south of Fillmore City. This conduct so enraged the Indians that they immediately took measures for revenge. I quote from a letter written to me by John D. Lee, farmer to the Indians in Iron and Washington counties: "About the 22nd of September Captain Fancher & Co., fell victims to the Indians' wrath near Mountain Meadows. Their cattle and horses were shot down in every direction, their wagons and property mostly committed to the flames." Lamentable as this case truly is, it is only the natural consequence of that fatal policy which treats the Indians like the wolves or other ferocious beasts. I have vainly remonstrated for years, with travelers, against pursuing so suicidal a policy, and repeatedly advised the government of its fatal tendency. It is not always upon the heads of the individuals who commit such crimes that such condign punishment is visited, but more frequently the next company that follow in their fatal path become the unsuspecting victims, though preadventure perfectly innocent. Of this character was the massacre of Captain Gunnison and party in 1853. He was friendly and unsuspecting, but the emigrant company that immediately preceeded him had committed a most flagrant act of injustice and murder upon the Indians, escaped unscathed, causing the savage feeling and vengeance which they had so wantonly provoked to be poured out upon the head of the lamented Gunnison. Owing to these causes, the Indians upon the main traveled roads leading from this Territory to California have become quite hostile, so that it has become quite impossible for a company of emigrants to pass in safety. The citizens of the Territory have frequently compromised their own safety and other peaceful relations, by interfering in behalf of travelers; nor can they be expected to be otherwise than hostile, so long as the traveling community persist in the practice of indiscriminately shooting and poisoning them, as above set forth. In all other parts of the Territory, except along the north and south routes to California, as above mentioned, the Indians are quiet and peaceful; it is owing to the disturbed state of our Indian affairs that the accounts of this quarter have been so considerably augmented. It has always been my policy to conciliate the native tribes by making them presents, and treating them kindly, considering it much more economical to feed and clothe them than to fight them. I have the satisfaction of knowing that this policy has been most eminently successful and advantageous, not only to the settlements but to the government as well as to the emigrants and travelers. But the most uniform judicious and humane course will sometimes fail in holding ignorant, wild and revengeful Indians by the wrist, to be indiscriminately murdered. We trust, henceforward, such scenes may not be re-enacted, and the existing bad feelings among the native tribes may become extinguished by a uniform, consistent, humane and conciliatory course of superior acts, by those who profess superior attainments.

Respectfully, I have the honor to remain, your obedient servant,

BRIGHAM YOUNG,

Gov. and Sup't of Indian Affairs, U. T.

Certified as correct by James Jack, Notary Public of Utah Territory, at Salt Lake City, August 15th, 1876.

Now came the examination of witnesses for the Government. General Daniel H. Wells was the first one called. His testimony was to the effect that in 1857 John D. Lee was farmer to the Indians and was popular with them; he had previously held the office of major in the militia.

Laban Morrill who was present at a council held at Cedar City on the Sunday previous to the massacre, stated that the proceedings of the meeting had begun when he entered. There was considerable excitement among those in attendance, and upon inquiring the reason, Mr. Morrill was informed of the offensive course of the emigrants in threatening that they would return and "destroy every d——d Mormon." The hostile attitude of the emigrants caused much feeling as there was already an army coming on the north against the people. A proposition was made, supported by Isaac C. Haight and Philip Klingensmith, that the emigrants be treated as a hostile force, and that they be attacked and destroyed or captured. Mr. Morrill opposed this in several speeches, and demanded to know what authority they had for such a step, and whether they had a letter from Colonel Dame. The reply was that they had no word from Dame, but were proceeding on their own authority. Haight and Klingensmith thought it would be best to kill the emigrants, but Morrill would not consent. "Klingensmith," he says, "was the hardest man I had to contend with there." The witness proposed, as a settlement of the matter, that a message be sent to Governor Young, inquiring what to do, and that no hostile course be pursued until the messenger returned. This was unanimously agreed to.

result." His logic is that the effect was produced before its cause existed. As Haight's letter of inquiry about the emigrants at Mountain Meadows was received and answered on the 10th—and by the utmost haste it took the special pony express until the evening of the 13th to reach Cedar City—several days before the circular and proclamation were issued, it is not unlikely that it inspired in the letter to Dame the expression, particularly applicable to the existing conditions in Iron County—"Save life always when it is possible. We do not wish to shed a drop of blood if it can be avoided,"—and also the authorization of Dame and Haight to issue permits to travelers passing through the Territory.

Word was sent to John D. Lee, who was not at the council, to have the Indians kept back, and not interfere with the emigrants, while another dispatch was forwarded by Haight to the Governor. This letter was sent with James H. Haslam, and witness went to his home at Fort Johnson feeling that all was well. On Friday, the 11th, about forty-eight hours before Haslam returned, Morrill was called by business to Cedar City, and before leaving there "learned that the job had been done; that is, that the destruction of the emigrants had taken place." When Haslam came, witness asked Haight about the Governor's answer, and Haight replied, "President Young sent word to let the emigrants pass on in peace."

James H. Haslam was then sworn as a witness. He testified that on the evening of Monday, September 7th, 1857, he started for Salt Lake City, having been directed by Isaac C. Haight to take a message to President Young, with all speed. At the same time an order which the witness read, was issued by Haight to John D. Lee, to keep the Indians in check till the messenger returned from Salt Lake City. The message which Haslam bore was addressed to "Brigham Young, Governor of Utah Territory." The witness was permitted to read it before it was sealed up. It stated that the Indians had got the emigrants corraled at Mountain Meadows, and Lee wanted to know what should be done. Lee was at that time Major of what was called the Post,* and also Indian agent or farmer. When Haslam reached Parowan he procured a note from Colonel Dame requesting the Bishops on his route to furnish him horses, which they did. He reached Salt Lake City on the morning of Thursday, September 10th, and handed the message to Governor Young who told him to get a little sleep and return at 1 p. m. that day. The Governor asked him if he could stand the trip back. The reply was yes, and President Young handed him a letter to Haight, in an unsealed envelope, saying, "Go with all speed. Spare no horse flesh. The emigrants must not be meddled with, if it takes all Iron

* This was a post built at Cedar City as a protection from hostile Indians.

County to prevent it. They must go free and unmolested.’* Haslam hastened back to Cedar City, arriving there on Sunday morning, September 13th. He met Haight in the street and handed him the letter. When he read it Haight exclaimed, “Too late! Too late!” and cried like a child. That was the first that witness knew of the massacre. On his way to Salt Lake he had found the Indians very mad, and they told him they would kill the emigrants before he got back.

The testimony of Joel W. White did not differ from that given by him at the former trial. He was followed by Samuel Knight and Samuel McMurdy, who drove the teams in which the wounded emigrants, children and guns were placed after the company surrendered. Knight and McMurdy acted under the direction of Lee and Klingensmith. McMurdy was on the first wagon and Knight on the second, with Lee walking between. Knight testified that when the halt was made and the Indians rushed on to the train, he saw Lee club a woman to death. McMurdy said that he saw Lee, at the moment of attack, in the act of shooting a woman; also saw him shoot with his pistol two or three of the wounded who were in the wagon.† The Indians, who came out of ambush, did the principal part of the killing. Both witnesses, when they were first called out, understood that it was to rescue the emigrants from the Indians.

Nephi Johnson testified that he was present at the Meadows, where “Klingensmith and John D. Lee seemed to be engineering the whole thing.” At the time of the killing, witness was after his horse about three hundred yards up the hill. He saw Lee fire, and a woman fall. The Indians rushed in and Lee helped them to pull the wounded out of the wagons. Before the shooting, Lee had told the militia that the emigrants were to be killed and a good many

* This testimony, with the greater part of the evidence of Haslam, is omitted in Bishop's "Life of John D. Lee."

† Lee, in his confession says: "I did not kill anyone there."

of the men objected, but did not dare say anything to those in command. Lee had full control on the field. Haight did not reach the Meadows till next morning.* The matter was talked over, and it was agreed to keep still about the affair. Klingensmith was one of those who gave this advice.

Testimony was also elicited from Jacob Hamblin, who, the next spring, counted and buried one hundred and twenty skeletons that had been torn up by wild animals. He returned to Salt Lake City a few days after the massacre, and saw the dead bodies lying around. On his way down he met Lee at Fillmore, en route to Salt Lake. Hamblin had heard of the affair from the Indians, and asked Lee about it. The latter said that the Indians compelled him to lead the attack. He did not want to do so, and when he cried, the Indians called him "Yah Guts," or "Cry Baby." Lee also said that he sent word to Cedar of what had occurred, and received a message saying that he was not to disturb the emigrants—then came another order that they were to be used up. Witness was not told who this order was from. Lee told Hamblin that there were white men in the massacre; that they did not know what they were going for till they got there; and that some would not act and some would. He named Klingensmith as a participator. Lee also said to him that an Indian chief brought him two young girls and asked what should be done with them. The Indian shot one and Lee killed the other. When the Indian agent, Dr. Forney, came for the surviving children, Hamblin gathered up seventeen—all that he could find—and delivered

* Lee states that Dame and Haight came in the morning and had a quarrel. He also says: "Col. Dame was silent for some time. He looked all over the field, and was quite pale, and looked uneasy and frightened. I thought then that he was just finding out the difference between giving and executing orders for wholesale killing. He spoke to Haight, and said: 'I must report this matter to the authorities.' 'How will you report it?' said Haight. Dame said, 'I will report it just as it is.' 'Yes, I suppose so, and implicate yourself with the rest?' 'No,' said Dame, 'I will not implicate myself, for I had nothing to do with it.' Haight then said, 'That will not do, for you know a d——d sight better. You ordered it done.'" Lee adds, "Col. Dame was much excited. He choked up, and would have gone away, but he knew Haight was a man of determination and would not stand any foolishness." Lee adds that he interposed to stop the quarrel.

them to him. Mr. Hamblin also stated that he afterwards told President Young and Apostle George A. Smith what Lee had related to him, and President Young said that when they could get a court of justice the matter should be ferreted out. This was the first opportunity the witness had had to tell it in a court of justice.

Nephi Johnson was recalled and stated that under orders of Colonel Dame he piloted Duke's company, which followed the massacred emigrants, safely through the country. At Harmony John D. Lee asked him to take the company into the mountains in the Santa Clara and he would follow with the Indians and kill them. Witness said that he would not do it; that he was sent to see the company through the country, and he would do that or die.

With this witness the prosecution rested. The other side introduced no evidence. The attorneys for the defense assumed the position that Lee only obeyed the orders of his superiors, and Mr. Bishop declared that "the Mormon Church had resolved to sacrifice Lee; discarding him as of no further use, and leaving him to a fate consequent on such evidence as had been introduced." In his closing address, District Attorney Howard said that he had unanswerable evidence that the authorities of the Mormon Church knew nothing of the butchery till after it was committed, and then Lee had knowingly misrepresented the facts to President Young, seeking to keep him in ignorance of the truth. The speaker stated that as Government attorney he had received all the assistance that any United States official could ask in any case; nothing had been kept back. It was not his intention to prosecute anyone innocently lured to the Meadows.

The case was given to the jury on the morning of September 20th, and after four hours' deliberation they brought in a verdict of guilty of murder in the first degree.* This result, upon the testi-

* All the jurors were Mormons. Their names were Wm. Greenwood, John E. Page, A. M. Farnsworth, Stephen S. Barton, Valentine Carson, Alfred I. Randall, James G. Montague, A. S. Goodwin, Ira B. Elmer, Andrew A. Correy, Charles Adams and Walter Granger:

mony which had been introduced, surprised no one. Lee received the news gloomily. His attorneys were granted a stay of proceedings pending a motion for a new trial.

During the progress of the Lee case—on September 14th—the indictments against Colonel Dame and Messrs. Adair and Wilden were, on motion of the District Attorney, quashed, as the evidence did not justify their prosecution.

On the 7th of October a motion for a new trial in the Lee case was argued and on the 10th overruled. The defendant was sentenced to suffer the death penalty. As the law gave him the choice of being hanged, beheaded or shot, he chose the latter method. The date set for the execution was January 26th, 1877. A large portion of Judge Boreman's speech at the time of passing judgment was an anti-Mormon tirade, utterly without justification by the evidence at either of the trials; in fact it contradicted the testimony and the statements of the Government attorney. Among other things he said:

The evidence of both trials will be considered together, and according to the evidence at the former trial, the massacre seems to have been the result of a vast conspiracy, extending from Salt Lake City to the bloody field, and the emigrants were plundered all along this line of travel. * * * Both trials, taken together, show that others, and some high in authority, inaugurated and decided upon the wholesale slaughter of the emigrants; that the slaughter took place nineteen years ago, and from that time down to the present term of court, there has been throughout the entire Territory, a persistent and determined opposition to an investigation of the massacre.

No such evidence as that referred to by the Judge was brought out at either trial, nor indeed, could it truthfully be given. Respecting some of Boreman's assertions, the Beaver *Enterprise* said: "We have resided in Utah much longer than Judge Boreman, and we have not witnessed the persistent opposition of which he speaks. * * * We can prove, by witnesses whose testimony his honor will allow is entitled to due weight, that no such conspiracy [that alleged by the Judge to extend "from Salt Lake City to the bloody field"] existed in Beaver City or Beaver County. We will prove that no such conspiracy, nor even a knowledge of the deed,

existed in Millard County. We will prove the same by good witnesses in regard to Juab and Salt Lake Counties. We do not deny that such conspiracy existed in Iron County; but its existence there does not prove, by a great deal, that it was to be found everywhere between Salt Lake City and the Meadows. If it was known in any other county besides Iron, it was in Washington County, and that county only."

The Ogden *Junction* had this to say of Boreman's speech: "His business was merely to sentence Lee. But being angry because he could not try men in authority in the Mormon Church, he took this occasion of convicting them as far as his unwarrantable language could do so. To us his harangue from the bench was an insult to the people of Utah, and an arraignment of unaccused persons which renders him unfit for the position that he occupies. To the great public it will appear as a disgraceful act in a public officer, and to the District Attorney as an attack on his veracity. When the prosecuting officer finds no case against persons whom rumor has accused, but whom the law has no ground for indictment, the Judge has no right even to insinuate anything against them, much less to condemn them in language only suited to a pothouse debate on some current report. But, then, what could be expected of Boreman, the last lingering remnant of the McKean ring, the fag end of the defunct Methodist-Christian crusade."*

* The Methodist Church, through *Zion's Herald*, its official organ, thus avowed its paternity of the anti-Mormon crusade: "We find Brigham Young was not so far out of the way in declaring that the present judicial movement of the government against his system, and even against his own immaculate person, is due to the Methodists; Dr. Newman's argument in the temple began the war. Our missionaries organized it by fortifying themselves on the field, and the camp meeting brethren gave it the last stroke before the arm of the state was raised to carry out its just decrees." The camp meetings referred to were held for one week, in June, 1871, by the Revs. Mr. Inskip, G. M. Pierce, J. H. Vincent and others. President Young invited all, and specially urged the young people, to attend them. He gave this notice at the tabernacles in Salt Lake City and Ogden, and published the invitation in the *Deseret News*. One of the Methodist ministers, Rev. J. H. Vincent, of New York, expressed a wish to President Young to address the Sabbath School children of Salt Lake. On Sunday, June 4th, about four thousand of these chil-

An appeal was taken in the Lee Case to the Supreme Court of the Territory, where it was argued on January 31st, 1877. The action of the lower court was affirmed on February 10, and on the 7th of March Judge Boreman fixed Friday, March 23, as the date for carrying out the judgment of the court.* A move to obtain a reprieve was inaugurated, the basis of executive clemency being that Lee should make a statement implicating the Mormon leaders; but this he could not do, the facts being plainly against such an allegation, so the matter was dropped.†

dren, and nearly as many adults, assembled in the Large Tabernacle and listened attentively to Dr. Vincent. The audiences at the camp meetings were large and orderly, and consisted chiefly of Latter-day Saints and their children. At the meeting on Sunday, June 11th, President Young was present. It was naturally expected that, aside from proper consideration for the many courtesies he had extended to them, he would at least receive the respectful treatment due to a stranger. On the contrary he was reviled and abused, the ministers aiming their sermons directly at him. This insulting and un-Christian procedure was in strong contrast to the kindness and liberality which had been uniformly shown by the Mormon leader to the Methodist ministers.

* Lee was taken from the Penitentiary on March 4th, arriving at Beaver on the 6th. He looked utterly broken down, and his health was poor. A son and son-in-law were present to meet him.

† The New York *Herald* and San Francisco *Chronicle* published, two days prior to Lee's execution, an alleged confession said to have been made by him to U. S. Attorney Howard. On the 11th of the following April there was filed in the Department of Justice, at Washington, an affidavit made by Edwin Gilman, an ex-deputy U. S. Marshal, who alleged that in that confession vital parts implicating Brigham Young were omitted, and charged that the U. S. Attorney had suppressed them. Gilman said that Lee had made the statement on a promise that in return he should receive a reprieve, and eventually a full pardon. This promise was made, according to Gilman, by the U. S. Attorney. Gilman, according to his affidavit, was a go-between and made overtures to Lee for the confession, promising him immunity in consideration of the disclosure. He said that he had seen the confession, and it was at variance with that given to the public by the District Attorney. Howard denied having made any change (the fact of the negotiations was not controverted); and subsequent developments vindicated him in this regard. The New York *Herald* sent a correspondent—Jerome B. Stillson—to Salt Lake, and for a time continued to publish mendacious sensational reports about the Mormons preparing for war, etc., and urging the sending of an army to Utah. General Smith, then in command at Fort Douglas, reported all quiet in Utah, and General Crook, who was sent out by the War Department, came and ascertained the falsity of the *Herald* telegrams, reporting thereon in such forcible language that Stillson had to change his tactics. The corres-

Marshal Nelson refrained from giving to the public any intimation as to the place selected for the execution until after the event occurred. Two days before the date fixed by the court, and in time for the party to make the necessary trip of ninety miles over an uneven road, he communicated to the newspaper correspondents and citizens who were to be present the fact that it would take place at what is known as Monument Point, Mountain Meadows. It is said that the Marshal and his coadjutors chose this spot in the hope that Lee, when brought face to face with death on the field where the awful crime for which he was to forfeit his life had been committed, would make a more complete and far-reaching confession than he had done. This may have been one of the reasons for the step, but doubtless another and equally powerful motive on the part of the Marshal was a desire for dramatic effect.*

pondent then claimed that efforts were being made to assassinate him—by the Mormons, of course—and alleged that on the night of May 26th he was shot at, and that on the afternoon of May 31st, while at his room in the Walker House, a stranger came in and attempted to stab him. In proof of this he showed an incision about an inch long in his vest and through two photographs, and an indented suspender buckle, with a slight abrasion of the skin on the left breast, such as might have been made with a pin. An official investigation exposed the fraud—the whole thing being a trick of Stillson's to create a sensation—and the *Herald* soon withdrew its correspondent.

*The Beaver *Square-Dealer* (non-Mormon), in its issue three days prior to the execution, had this to say of Lee's last confession, which the editor had had the privilege of perusing: "One particular statement he has adhered to from the first. He has at all times declared that Brigham Young and the Church leaders had nothing to do with the massacre. His hopeful statement, made at the time of his arrest, and reiterated for several weeks, that he would place the saddle on the right horse, was found to refer solely to John M. Higbee, who Lee said succeeded him as major of the Iron County militia, some time before the massacre. Lee's statement does not even reach Colonel Dame. He knows nothing affecting anybody higher in the Church than Haight and Klingensmith. The value of Lee's statement accrues chiefly to the Church leaders, whom it exonerates completely. Standing on the eve of the execution, after a searching investigation which has been prolonged for two years, not a jot or tittle of evidence has been elicited connecting the Mountain Meadows massacre with Brigham Young or any leading Church official. Everything which Klingensmith and Lee have told goes to prove that the conspiracy was hatched at Cedar City. Lee has told nothing because he has nothing to tell. The country will be satisfied after the execution that he died with no secret in him affecting Brigham Young. If he held such a fearful lodgment, Attorney Howard

On the afternoon of Wednesday, March 21st, John D. Lee was placed in a close carriage, and driven southward from Beaver, a company of troops from Fort Cameron acting as guard. U. S. Marshal Nelson, U. S. Attorney Howard, a few press representatives, and about twenty citizens made up the remainder of the party, which did not travel in a body lest particular attention should be attracted. All met at Mountain Meadows on the morning of March 23rd.

During the trip Lee was sullen and silent. Rev. George Stokes of Beaver was present as his spiritual adviser, and sought to draw him into a conversation. His efforts were vain until Friday morning, when Lee began talking about religion. The parson advanced some ideas which did not meet with the prisoner's approval, and a discussion ensued, drifting from one subject to another till the massacre was named. The talk upon this topic was between themselves. Mr. Stokes afterwards said that Lee confessed to the killing of five persons, but did not state their age or sex. In conversation with others a few minutes later Lee stoutly denied having made such a confession, and protested his innocence of actual participation in the killing. He pointed out to the party various points of interest in connection with the massacre. His countenance betrayed no emotion, but wore the same stolid look that it had borne from the outset. He seemed to conduct himself with perfect coolness. This was probably in a degree attributable to the fact that almost up to his last moment he anticipated the interposition of the reprieve promised as a reward for his confession. But it never came.

would be in possession of it today and Lee's sentence commuted. A few facts warrant our statements: John D. Lee was tried by a Mormon jury, who, on the testimony of Mormon witnesses, brought in their verdict of murder in the first degree. Years ago Young severed Lee from his Church, thus challenging the exposition of any orders, written or otherwise, which he may have held from him as the head of the Church. The conviction of Lee by a Mormon jury and his silent execution will be a receipt for Brigham Young for all time to come as against the massacre of the Arkansas emigrants." In view of this statement the reader is left to draw his own conclusions as to why Lee's last confession, published after his death by his attorney, W. W. Bishop, is so worded as to cast reflections upon President Young in relation to the Mountain Meadows massacre.

The spot selected for the execution was about one hundred yards from Monument Point, and toward this place the members of the party in camp, began, about 9 a. m., to make their way. On eminences overlooking the ground soldiers were stationed, while a squad stood in line facing the monument. Three government wagons were drawn into a semi-circle, and a covering of blankets so arranged that the shooting party was hidden from view. Lee sat some distance away, with the Marshal, quietly watching the preparations. He betrayed no fear of death. A coffin was brought and placed about twenty-five feet from the wagons, for him to sit upon. A slight trepidation was noticeable as he glanced at it, but this was only momentary.

When the preparations were completed, Lee was called forward. He presented a bottle of "bitters" to those immediately around, some of whom responded to his invitation to take a last drink with him; then, leaning upon the arm of Parson Stokes, he approached the wagons. It was a strange sight to see this old man of sixty-five years walking calmly, and, to all outward appearance, unconcernedly to his doom. As he reached the coffin, he deliberately removed his overcoat and laid it down. He then handed his hat to Marshal Nelson and his muffler to District Attorney Howard, and quietly took his seat on the end of the coffin, facing his executioners.

The death warrant was read, and Lee listened attentively. At its conclusion Marshal Nelson spoke: "Mr. Lee, if you have anything to say before the order of the court is carried into effect, you may now do so."

"I wish to speak to that man," said Lee, pointing to James Fennamore, the photographer, who was fixing his camera to take a negative before the shooting. "Come over here," he said, beckoning with his hand.

"In a second, Mr. Lee," replied Fennamore.

Lee waited till the artist was ready, and proceeded: "I want to ask a favor of you. I want you to furnish my three wives each a copy of my photograph"—meaning the one about to be

taken—"send a copy of the same to Rachel A., Sarah C., and Emma B."

Mr. Howard responded for Mr. Fennamore, who was busy with his instrument, "He says he will do it, Mr. Lee."

The condemned man repeated the three names again, carefully, and said, "Please forward them—you will do it?" To which the artist gave an affirmative reply. Lee then arose, looked calmly at those around him, and began speaking:

I have but little to say this morning. Of course I feel that I am upon the brink of eternity, and the solemnities of eternity should rest upon my mind at the present. I have made out, or endeavored to do so, a manuscript and an abridged history of my life. This is to be published. I have given my views and feelings with regard to all those things. I feel resigned to my fate. I feel as calm as a summer morning. I have done nothing intentionally wrong. My conscience is clear before God and man, and I am ready to meet my Redeemer and those that have gone before me behind the veil.

I am not an infidel. I have not denied God or His mercy. I am a strong believer in those things. The most I regret is parting with my family. Many of them are unprotected, and they will be left fatherless. [He paused here two or three seconds.] When I speak of those little ones they touch a tender chord within me. [Here his voice faltered perceptibly.]

I have done nothing designedly wrong in this affair. I used my utmost endeavors to save these people. I would have given worlds were they at my command, to have averted that calamity, but I could not do it. I am sacrificed to satisfy feelings—I am used to gratify parties. But I am ready to die. I have no fear. Death has no terror. No particle of mercy have I asked of the court or officials, to spare my life. I do not fear death. I shall never go to a worse place than the one I am now in. I have said it to my family, and I will say it today, that the government of the United States sacrifices their best friend. That is saying a great deal, but it is true—it is so.

I am a true believer in the gospel of Jesus Christ. I do not believe everything that is now practiced and taught by Brigham Young. I do not agree with him. I believe he is leading the people astray. But I believe in the gospel as it was taught in its purity by Joseph Smith, in former days. I have my reasons for saying this. I studied to make this man's [Brigham Young's] will my pleasure, and did so for thirty years. See how and what I have come to this day. I have been sacrificed in a cowardly and dastardly manner. Evidence has been brought against me which is as false as the hinges of hell. I am now singled out and sacrificed—sacrifice a man that has waited upon him, that has wandered and endured in the days of adversity, true from the beginning! He has an influence over the people like a reptile, that draws its prey into the jaws of death. I cannot compare it to anything else.

There are thousands of people in the Church, honorable, good-hearted, that I cherish in my heart. I regret to leave my family. They are near and dear to me. These are things to rouse my sympathy. I declare I did nothing wrong designedly in this unfortunate

affair. I did everything in my power to save all the emigrants ; but I am one that must suffer. Having said this, I feel resigned. I ask the Lord my God to extend His mercy to me and receive my spirit.

When Lee had ceased speaking the Marshal announced that the hour for execution had come. Mr. Stokes knelt on one side of the coffin—Lee kneeling opposite—and offered a fervent prayer. This being ended the Marshal tied a white handkerchief around the eyes of the doomed man, who requested that he be shot through the heart, so that his body would not be mangled.

After the blindfolding, the Marshal went to tie his hands, when Lee said, "Don't do that. Please let my arms be free." The request was granted, and Lee, sitting erect upon the coffin, clasped his hands over his head and exclaimed, "Center my heart, boys!"

In a few seconds the Marshal spoke: "*Ready! Aim! Fire!*" A line of flame shot out from the wagons, and the ground at the rear of the coffin was torn up with bullets. The body of Lee poised for an instant and dropped heavily back upon the coffin; the arms fell down by the sides, and all was over. Death was instantaneous. One of the chief actors in the Mountain Meadows massacre had paid with his life the penalty of his crime.

The body was lifted into the coffin, which was slightly tilted up for a photograph to be taken of the corpse. It was then placed in a wagon and conveyed to Cedar City. The officers and spectators returned to Beaver. The body was forwarded to the Lee family at Panguitch, there to be consigned to its earthly tomb.

CHAPTER XXX.

1870-1877.

LAST DAYS AND LABORS OF BRIGHAM YOUNG—WOMAN'S PLACE AND WORK IN MORMONDOM—
 THE RELIEF SOCIETY—THE RETRENCHMENT ASSOCIATION—THE WOMAN'S "EXPONENT"—
 THE YOUNG MEN'S AND YOUNG LADIES' MUTUAL IMPROVEMENT ASSOCIATIONS—THE DESERET
 SUNDAY SCHOOL UNION—PRESIDENT YOUNG LAYS DOWN SOME OF HIS OFFICIAL BURDENS—
 HE RESIGNS THE OFFICE OF TRUSTEE-IN-TRUST—FIVE COUNSELORS CHOSEN TO ASSIST THE
 FIRST PRESIDENCY—THE UNITED ORDER—DEATH OF PRESIDENT GEORGE A. SMITH—THE ST.
 GEORGE TEMPLE DEDICATED—SETTING IN ORDER THE STAKES—PRESIDENT YOUNG'S LAST
 PUBLIC ADDRESS—DEATH OF UTAH'S FOUNDER.



HE present volume finds no more appropriate ending than that furnished in the death of Utah's great pioneer and founder.

With the passing of that mighty spirit went also through the eternal portals the last of another era in the annals of our mountain commonwealth; an era largely created, even as that commonwealth had been, by the character and genius of Brigham Young. Before treating of the circumstances of his dissolution it will be proper to briefly sketch in this final chapter the closing labors of his mortal life.

That the finale of his earthly career came not in the nature of a surprise to him, and that it was his desire, and so far as possible his design, that when his last hour struck it should find him with a record rounded and complete, is evident from the preparations made by him for the solemn change, and the calm resignation with which he awaited his summons to the unseen world. It was no secret to the public then, nor is it to the reader now, that the President's health, for many months prior to his demise, had been precarious, and that at times he had been quite feeble. For several years the symptoms of his approaching end had been more or less apparent. It was plain that the well-knit though finely organized system which

had endured so much, the busy brain which, like the brow of Jove, had given birth to so much that was beneficent and wise, though virile and vigorous to the last—thanks to the strict temperance and chastity of his life—were beginning to succumb to the immense pressure of public and private cares and responsibilities placed upon him. During his latter years he sought to lay down some of his official burdens, doubtless with a view to lengthening out his days and extending his useful and philanthropic labors. With some of those labors,—such as have not yet been treated, or have received but passing mention in these pages, it is now our purpose to deal.

Woman's work,—the all-important part played by the daughters of Eve in the great drama of the universe, was ever a favorite theme with Brigham Young, as it had been with Joseph Smith, and as it always will be with those who delve beneath the surface of things and obtain an insight into the spiritual mysteries of Mormonism. It is an egregious error, and one that serves to show the ignorance of those who sincerely cherish it, that in the sublime, far-reaching scheme of this maligned and misunderstood religion, woman is degraded or looked down upon. On the contrary, she is exalted and revered,—not lifted above man, as in the impractical dreams of the love-sick swain or over-devout enthusiast; for that is not her place in the divine order of creation and development. Here and hereafter, says Mormonism—reasserting the Pauline enunciation—man is the head of the woman as Christ is the head of the Church; but even as the members of that spiritual body are one, heirs of God and joint heirs with Jesus Christ, so woman is one with man; his partner, not his plaything and slave, and wherever he reigns as king, she sits as queen, through time and in all eternity. "It is not good that man should be alone." "The man is not without the woman, nor the woman without the man, in the Lord." It is a joint sceptre that they sway even over realms supernal. "Our Father and Mother in heaven" is as much a part of the Mormon creed as the sublime declaration in Genesis that "God created man in his own image; in the image of God created he him; male and female created he them."

Marriage for eternity, endless increase, and the right of parents enthroned in celestial glory to reign over their posterity forever, are among the peculiar tenets embraced in Mormonism. Such were the views of Joseph Smith and Brigham Young.

As early as March, 1842, in Nauvoo, Illinois, the Prophet, feeling that his end was approaching, and that he must set in order the affairs of the Church before he departed, took steps to show to "the sisters" among the Saints their proper place in the great organization which he had founded. It was then that he called into existence the now mammoth organization known as the Relief Society, composed exclusively of women, members of the Church of Jesus Christ of Latter-day Saints. At that initial meeting, on the 17th of March, the Prophet stated to those present that "the meeting was called for the purpose of making more complete the organization of the Church by organizing the women in the order of the Priesthood." Apostle John Taylor was temporary chairman, and Apostle Willard Richards temporary secretary on the occasion. Eighteen of the sisters were present when the Relief Society was organized.* Among the duties enjoined upon its members were to "provoke the brethren to good works, look after the needs of the poor and perform charitable acts." They were to assist in correcting the morals and strengthening the virtues of the community. It would be in order, the Prophet said, for them to elect a president over their society and let her choose two counselors to assist her, and they should then preside over the society just as he and his counselors presided over the Church. He would give them from time to time such instructions as they might need. Emma Smith was chosen president of the society, Sarah M. Cleveland and Elizabeth Ann Whitney her counselors, Eliza R. Snow Secretary, Phœbe M. Wheeler

*They were Emma Smith, Martha Knight, Elvira A. Cowles, Sarah M. Cleveland, Phœbe Ann Hawkes, Margaret A. Cook, Desdemona Fullmer, Elizabeth Ann Whitney, Sarah M. Kimball, Elizabeth Jones, Leonora Taylor, Eliza R. Snow, Sophia Packard, Bathsheba W. Smith, Sophia Robinson, Philinda Herrick, Phœbe M. Wheeler and Sophia R. Marks.

assistant secretary and Elvira A. Cowles treasurer. Such was the inception of the Relief Society, the pioneer of all other organizations among the Mormon women.

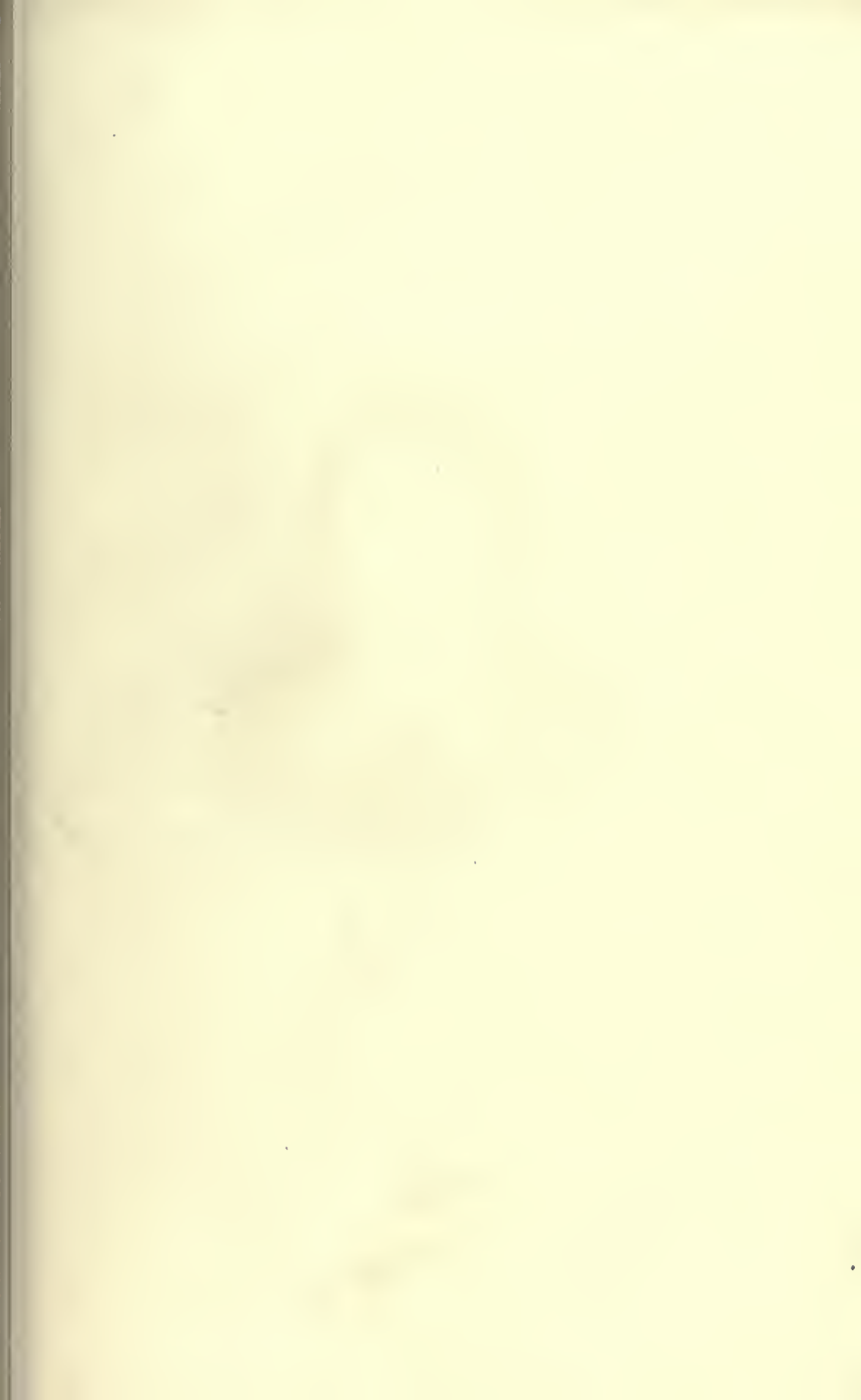
Though always prolific of good works, according to the spirit and purpose of its creation, it was not until after the removal of the Saints to the Rocky Mountains that the society found extensive opportunities for the exercise of its benevolent functions. Among the heroines gratefully remembered, whose deeds of kindness to the sick and half-starved settlers of these mountain solitudes are recorded in the archives of the society, and engraven in letters of gold upon the memories of many of their survivors, are the sainted names of Vilate Murray Kimball, Mary Ann Angell Young and Elizabeth Ann Smith Whitney.

As early as 1851-2, the Relief Society had temporary organizations in several wards of Salt Lake City and surrounding places, and in 1855 President Young called upon the bishops to organize a branch society in each ward. He gave to Eliza R. Snow the mission of assisting to establish them, and she, with her counselor, Zina D. H. Young, and other earnest and indefatigable workers, lived to perform a stupendous labor in this direction. As already shown, the Relief Society, with Sister Snow at its head, was in thorough and successful operation throughout Utah during the period when the Cragin and Cullom bills were introduced into Congress. That those measures failed to become law was doubtless due in part to the spirited and united protest of the devoted sisters of the Relief Society. But that event, as well as the next important one affecting the women of Utah,—the conferring upon them of the elective franchise,—has already been dwelt upon. What we now wish to mention are those movements which took place during the closing years of President Young—movements which he sanctioned and in some instances directly inspired—reserving the general subject of woman's work in Utah for future and more voluminous treatment.

Early in the year 1870, about the time that the Utah woman suffrage bill, through the influence of President Young, was passed

by the Legislature, Mrs. M. I. Horne was given by him a mission to organize what was termed the Retrenchment Association. This mission inculcated, among other things, economy of labor and reform in dress, its object being to lighten the duties of the overworked housewife and give the mothers and daughters among the Saints more time to devote to mental and spiritual culture. Simplicity of food, with plainness and modesty of attire, were among the teachings enjoined. Practically the motto of this Association, so far as pertained to matters of apparel, was: "Let your garments be plain and the beauty thereof the workmanship of your own hands."

Mrs. Horne, calling to her aid twelve branch presidents of the Relief Society, began her mission at a preliminary meeting held at her home in the Fourteenth Ward, Salt Lake City. It was there that a committee of three ladies, namely, Sarah M. Kimball, Amelia Folsom Young and Priscilla M. Staines were appointed to wait upon Acting-Governor Mann and thank him for signing the bill conferring upon the women of Utah the elective franchise. At a subsequent meeting in the Fifteenth Ward Hall, the Retrenchment Association was organized, with the following named officers: President, M. Isabella Horne; Counselors, Eliza R. Snow, Zina D. H. Young, Margaret T. Smoot, Phœbe Woodruff, Bathsheba W. Smith and Sarah M. Kimball. This was its first general organization. The inception of the movement, however, dates from the previous year. It was in the winter of 1869, at the Lion House, President Young's residence, that he called his wives and daughters together and gave them instructions in economy and healthful living, deprecating the extravagance and vanity that were becoming prevalent in the community. He desired his daughters to set the example of reform, and fit themselves to be wives and mothers, intelligent, useful and honorable members of society. Said he: "Your time is all the capital that God has given you, and if you waste that you are bankrupt indeed." President George A. Smith and his wife Bathsheba were present on the occasion, and the former also addressed those assembled. From this family meeting went forth the inspiration of the retrenchment cause, and soon





Portrait

Louisa L. Greene Richards

afterward Mrs. Horne was given the mission to which reference has been made. The Retrenchment Association was subsequently merged into the Young Ladies' Mutual Improvement Association.

The rise and rapid growth of the women's organizations among the Latter-day Saints soon rendered it advisable that they should publish a periodical through which to express their views and sentiments. Just who originated this idea is uncertain. It seems to have been a more or less general feeling among the leading Mormon women that they should have a magazine or some sort of publication as the organ of their societies. There is no doubt, however, that the prime mover in the project was Edward L. Sloan, Esq., the brilliant and progressive editor of the Salt Lake *Herald*. His sentiments and those of the ladies in relation to the subject finally led to the founding of the *Exponent*, with one exception the first woman's paper published west of the Mississippi River.* It made its appearance on June 1st, 1872, and is still issued as a semi-monthly. It was on President Young's birthday that the initial number came forth, though this was due to chance and not to design.

The first editor of the *Woman's Exponent* was Miss Lula L. Greene, now Mrs. Lula Greene Richards, wife of Levi W. Richards, Esq., of Salt Lake City. The young lady, who was a grand-niece of President Young, was a resident of Smithfield, Cache County, from which place she removed to Salt Lake to begin her editorial labors. Up to that time her literary experience had been confined almost exclusively to the writing of verses for the local press, and it was with a degree of trepidation, mingled with a firm resolve to "do her best," that she entered upon her untried duties in the arduous and responsible field of journalism.†

* The exception was the *New North-West*, edited and published by Mrs. A. J. Duniway, at Portland Oregon. This paper was established in 1869.

† Editor Sloan, of the Salt Lake *Herald*, for which journal Miss Greene had written some little poems, first suggested to her the idea of becoming editor of a woman's paper to be called the *Exponent*. Subsequently President Young and Eliza R. Snow, with whom the young lady communicated, warmly sanctioned the project, and the former placed it upon her as "a mission."

The second editor of the *Exponent* and the one who still continues to preside over its destinies, is Mrs. Emmeline B. Wells, who, from long association with the periodical, as well as from the faithful and valiant service rendered by her pen through its columns, will always be identified with its history. Her name will never be considered even secondary in this connection. Mrs. Richards' laurels as the pioneer lady journalist of the Rocky Mountain region, are secure; equally so the bays of Mrs. Wells as the tireless, earnest and devoted editor and manager of the *Exponent* during the latter and much the longer portion of its career. She is gifted with poesy, and the children of her muse are as numerous as they are graceful and beautiful. Some day, in every home in Utah, and in many outside the Territory, there shall be found cherished among its literary treasures a volume of poems bearing the name of Emmeline B. Wells as its author. Though a native of New England, she has lived in Utah since the second year of its settlement—1848. She was then the wife of Presiding Bishop Newel K. Whitney, with whom she emigrated from Nauvoo and Winter Quarters. After his death in 1850, she married General Daniel H. Wells. She became editor of the *Exponent* in August, 1877, Mrs. Richards having resigned. For over two years previously, however, she had been associated with that lady upon the paper.*

The next movement of importance among the Mormon women was the organizing of the young ladies under the title of the Young Ladies' Mutual Improvement Association. This change was caused by the adoption of a general plan for the organization of societies among the young men of Mormondom.

At Salt Lake, Ogden, and other places in the Territory mutual improvement associations and literary societies had existed for

*Not the least of Mrs. Wells' busy and multifarious labors was that assigned to her by President Young in connection with "the grain-storing movement." This mission, given to the Relief Society in October, 1876, in anticipation of an impending famine, resulted in the storing of many thousands of bushels of grain by the women's organizations throughout the Territory.

several years prior to 1875, but such institutions were not general. Early in that year President Young called Elder Junius F. Wells to proceed with the organization of the young men. On June 10th the first Young Men's Mutual Improvement Association under the general system inaugurated was organized in the Thirteenth Ward, Salt Lake City. Its officers were: President, Henry A. Woolley; counselors, B. Morris Young and Heber J. Grant; secretary, Hiram H. Goddard. Similar societies were formed in Salt Lake, Box Elder and Washington counties by Elder Wells, who, toward the close of the year, went east on a preaching mission. The First Presidency then selected Elders John Henry Smith, Milton H. Hardy and B. Morris Young to continue the work, and they effected ward organizations throughout the Territory. By the autumn of 1876, the movement became universal in the Church, reaching to its various foreign missions. Its magnitude required a general controlling board of officers for its judicious management, and on December 8th, 1876, a Central Committee was organized as follows: President, Junius F. Wells; counselors, Milton H. Hardy and Rodney C. Badger; secretary, John Nicholson; assistant secretary, Richard W. Young; corresponding secretary and reporter, George F. Gibbs; treasurer, Mathoni W. Pratt.*

Immediately succeeding the formation of the young men's societies came the rechristening of the young ladies' retrenchment organization as mutual improvement associations. These, like the institutions among the young men, were soon in operation wherever the Saints were located—in Utah, Idaho, Arizona, Colorado, Wyoming, Nevada, New Mexico, Canada, Mexico, the Sandwich and Samoan Islands, and Great Britain and other European countries.†

A few weeks prior to his death President Young began the work of conforming the Relief Societies to the order of the Stakes of

* In April, 1880, this committee was changed to a General Superintendency with other officers.

† A central organization for the Young Ladies' Mutual Improvement Associations was effected in June, 1880.

Zion. In this, however, he was only permitted to take the initiatory step by organizing the Relief Society of Weber Stake. On the 19th of July, 1877, he met with the branch societies of that section at Ogden, and addressed a large assemblage of the women. Mrs. Jane S. Richards, wife of Apostle Franklin D. Richards, was appointed President of the Relief Societies in Weber Stake. Her counselors were Mrs. Hattie C. Brown and Mrs. Sarah Herrick. To Weber, therefore, belongs the palm of having the pioneer stake organization of the Relief Society, and the only one organized by President Brigham Young.

The first volume of this work recorded the organization of the pioneer Sunday School of the Territory, in December, 1849. It was founded by Richard Ballantyne, now Superintendent of Sabbath Schools in the Weber Stake of Zion. From that the institution of these schools extended to various parts. The years 1864-5 witnessed considerable activity in this line. In 1867, the necessity of adopting a uniform system was discussed, and a meeting of Sunday School workers was held at Salt Lake City on November 4th of that year. It was not until August 9th, 1872, however, that a plan of organization was decided upon. On that date a meeting of Sunday School superintendents convened in the City Hall, at Salt Lake City. It was presided over by that indefatigable worker, George Goddard. At this meeting, Apostle George Q. Cannon—who was conducting the *Juvenile Instructor* as the organ of the Sunday Schools—was elected General Superintendent of the Deseret Sunday School Union; Edward L. Sloan was chosen secretary, and George Goddard and Robert L. Campbell corresponding secretaries. The first statistical report of the Union was made in 1872, at which time there were 190 schools, with 1,408 teachers and 13,373 pupils.*

As stated, President Young, during the closing years of his life,

* In 1891 the report gave 481 schools, 9,004 teachers and 60,023 pupils. This did not include 76 schools, with 4,312 pupils, also under the supervision of the Union board, in the Northwestern States, Canada, Mexico, Great Britain, Switzerland, Germany, Scandinavia, New Zealand, and the Sandwich and Samoan Islands.

sought to be relieved of some of the official burdens which he had borne so long, and the weight of which, after he passed his seventieth year, began to be oppressive. At the annual conference of the Church in April, 1873, he resigned the office of Trustee-in-Trust, which he had held for about twenty-five years, and President George A. Smith, his first counselor, who was then absent on his Palestine tour, was chosen to succeed him in that position. At the same time the following named Elders were elected assistant trustees to President Smith: John Sharp, Joseph W. Young, John L. Smith, Le Grand Young, Elijah F. Sheets, Joseph F. Smith, Moses Thatcher, John Van Cott, Amos M. Musser, James P. Freeze, F. A. Mitchell and Thomas Taylor. President Young stated at this meeting, which was held on Wednesday, April 9th, and was the closing one of the conference, that he then had two counselors to aid him as President of the Church and that he purposed selecting five more. It was his privilege, he said, to have seven of the brethren to act in that capacity.* Accordingly, in addition to his two counselors—Presidents George A. Smith and Daniel H. Wells—five others were nominated and sustained as follows: Lorenzo Snow, Brigham Young, Jr., Albert Carrington, John W. Young and George Q. Cannon.

The Forty-fourth annual conference of the Church convened at Salt Lake City on the 6th of April, 1874. President Young and other leading authorities were absent in the south, where on March 31st they had engaged in the ceremony of laying the corner-stone of the St. George Temple. President Wells presided at the conference. The congregation was addressed by Apostle Orson Pratt, who in his discourse sounded the keynote of an important movement about to be reinaugurated among the Saints—the organization of the United

* At a conference held at Kirtland, Ohio, September 3rd, 1837, four additional counselors were chosen to assist the First Presidency. They were Oliver Cowdery, Joseph Smith, Sr., Hyrum Smith and John Smith. These four, together with the first three Presidents—Joseph Smith, Jr., Sidney Rigdon and Frederick G. Williams—were “to be considered the heads of the Church.”

Order.* At the conclusion of the discourse, on motion of President Wells, the conference adjourned until Thursday, May 7th.

President Young and party arrived at Salt Lake City from St. George on the 20th of April. On his route from south to north he had organized the people into the "United Order of Zion." Said he: "Our object is to labor for the benefit of the whole; to retrench in our expenditures; to be prudent and economical; to study well the necessities of the community, and to pass by its many useless wants; to study to secure life, health, wealth and union."

On April 26th the Order was the theme of discourses by Presidents Young and Smith at the Tabernacle in Salt Lake City, and on the 29th a branch organization was effected in the Twentieth Ward, with Bishop John Sharp as president. At the adjourned conference on May 7th, President Young requested the speakers to address themselves to this subject—a request of which all were mindful. A general organization was effected at the conference on the afternoon of Saturday, May 9th.† Following this action of the General Conference, organizations were formed in all the wards of the Church.

* See Chapter VI., Vol. I.

† The officers elected were as follows:

President of the United Order in all the world wherever established—Brigham Young.

First Vice-President—George A. Smith.

Second Vice-President—Daniel H. Wells.

Assistant Vice-Presidents—Orson Hyde, Orson Pratt, Sr., John Taylor, Wilford Woodruff, Charles C. Rich, Lorenzo Snow, Erastus Snow, Franklin D. Richards, George Q. Cannon, Brigham Young, Jr., Joseph F. Smith, and Albert Carrington.

Secretary—David McKenzie.

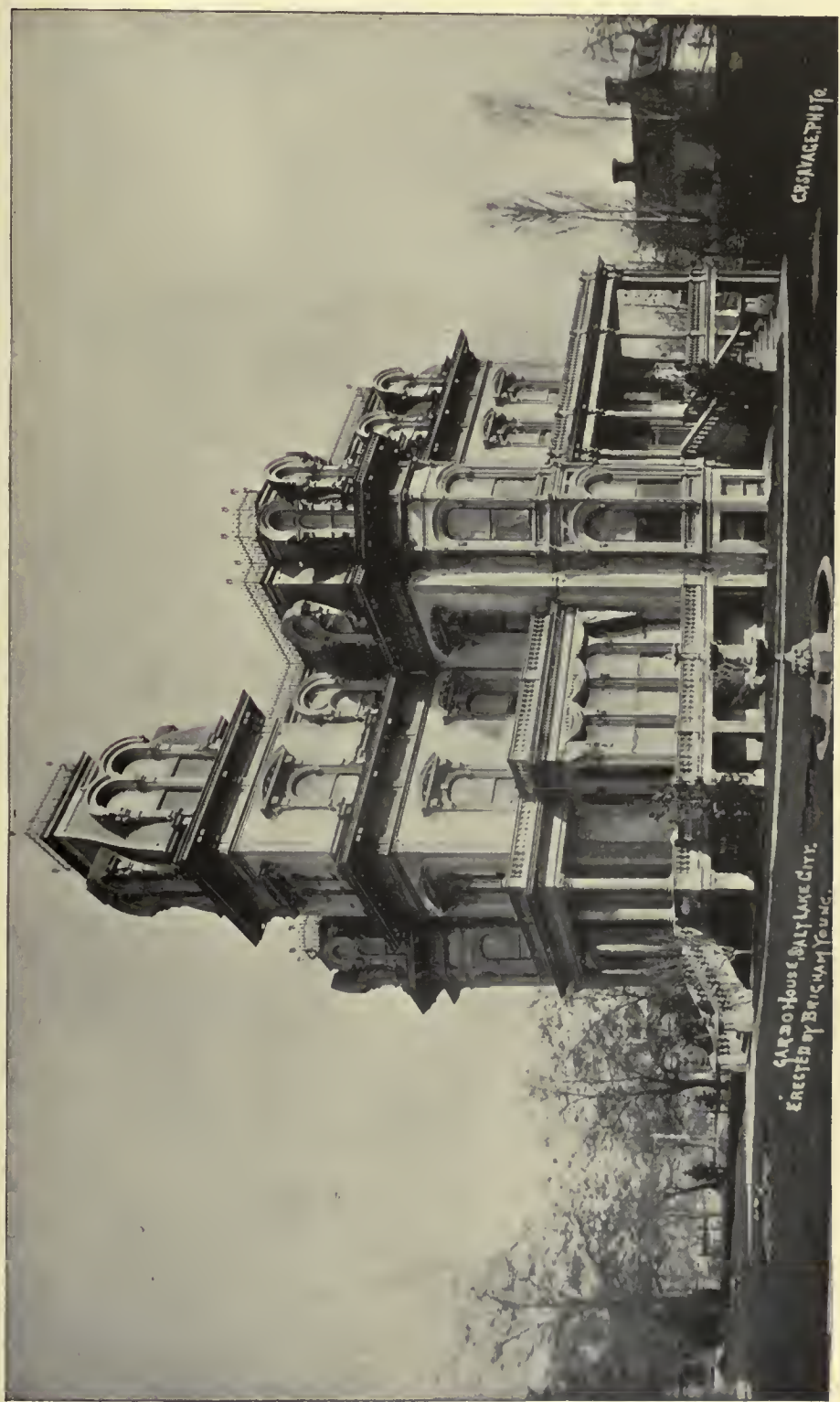
Assistant Secretaries—George Goddard, David O. Calder, Paul A. Schettler, James Jack, and John T. Caine.

General Book-keeper—Thomas W. Ellerbeck.

Treasurer—George A. Smith.

Assistant-Treasurer—Edward Hunter.

Board of Directors—Horace S. Eldredge, John Sharp, Feramorz Little, Moses Thatcher, John Van Cott, James P. Freeze, Henry Dinwoodey, Thomas Taylor and Elijah F. Sheets. The presidents of branches in the various wards were also included in the general board of directors.



GARDHOUSE, BAY LAKE CITY.
ERECTED BY BRICHAM YOUNG.

CASIMAGE PHOTO

The Gardo House.

In the death of President George A. Smith, on September 1st, 1875, President Young was called upon for the second time to part with a First Counselor in the Presidency. At the time of his demise he was not an aged man—being in his fifty-ninth year. His health had not been good for more than a year, but the immediate cause of death was traceable to a severe cold, contracted early in March, 1875, while he was at St. George. This had developed lung trouble, which steadily encroached upon him, notwithstanding his determined and persistent efforts to shake it off. At no time during his last illness was he unable to dress himself and move from room to room. On the morning of his death he arose, dressed himself, and walked from his bedchamber to a front apartment, and took his seat in a chair. The call to the spirit world came suddenly. There was no struggle. He drew two long breaths, his body straightened, and his head sank into the arms of his wife. A pure and noble soul had passed from mortality.

From his boyhood President Smith had been actively engaged in public life. He possessed a bright intellect and wonderful powers of memory. Frank, genial and unassuming in his manner, he was also fearless in his advocacy of right. His public addresses were models of terseness and brevity.

At the funeral services, on September 5th, President Young controlled his grief until the choir began the last hymn, when he could restrain himself no longer, and gave way to tears. With their President, the whole Mormon people mourned the death of a beloved Apostle.

On Thursday, April 6th, 1876, the forty-sixth annual conference of the Church convened at Salt Lake City, and occupied four days.*

* A disaster of an exceptional nature occurred at Salt Lake City the day before the opening of this conference. It was the explosion of forty tons of blasting and gunpowder stored in four stone magazines located on the crest of Capitol Hill. At twelve minutes to five o'clock, on the afternoon of April 5th, the inhabitants of the city and vicinity were startled by two terrific reports, which came almost simultaneously. After the lapse of a few seconds there were two other distinct convulsions, equally deafening. In a moment missiles whistled and tore through the air over almost the entire area of the city, while

The principal theme at this conference, as at that in October following, was temple building. The response of the Mormon people to these instructions was a liberal contribution of means for hastening to completion the sacred edifices then in course of erection. Through the efforts put forth this year, President Young was enabled, on New Year's Day, 1877, to dedicate part of the first temple erected in Utah—that at St. George. The building was not wholly completed, but portions were prepared for use in performing certain sacred ordinances. At noon on January 1st, President Young, with Apostles Wilford Woodruff, Erastus Snow and Brigham

the concussion was so great that houses tottered and trembled, roofs, walls and ceilings were rent, thousands of windows smashed, and hundreds of persons prostrated on the ground. Consternation seized upon the people until the nature of the catastrophe was ascertained. Fortunately this did not take long; for the dense volume of smoke hovering for a brief time over the spot where the magazines had stood, indicated what had happened. The explosions were distinctly heard and felt at Farmington, fifteen miles north, and even caused the vibration of buildings at Kaysville, five miles farther on. There were four fatalities—two of them being Charles Richardson and Frank Hill, boys about eighteen years of age, who were seen near the magazines just before the explosion, and pieces of whose mangled bodies were subsequently found at different places; another was Mrs. Mary Jane Van Natta, who was in the act of drawing water from a well in the Nineteenth Ward when she was struck in the back with a rock and instantly killed; the fourth was a little son of James Raddon, who was playing with a number of children in the northwest part of the Twentieth Ward when a flying rock hit him in the left breast, causing instant death. Besides this, there were a number of persons injured, some severely, and a great many suffered from nervous prostration. The damage to property was extensive, very few houses in the city escaping injury, while many were nearly wrecked. That the list of casualties was not far greater was due to the elevated positions of the magazines. Since that period, however, no storehouses of that nature are permitted in such dangerous proximity to the city. Of the four buildings, one was owned by the Hazard Powder Company, and contained ten tons of powder; two belonged to the Santa Cruz and Oriental Company, with fifteen tons; and one to the Dupont Company with fifteen tons. The explosive was chiefly blasting powder. At an inquest the jury found that the "explosion was caused by loose powder strewed in the vicinity of the magazines being ignited by a burning paper wad from a shot gun, supposed to have been fired immediately preceding the explosion; also that no blame can be attached to any person or persons, the explosion being purely accidental." This finding was on the assumption that either Hill or Richardson, who were seen with a shot gun, had fired the weapon when passing near the magazines. The generally accepted view, and that expressed by the newspapers, was that the cause was spontaneous combustion in some of the giant or hercules powder stored in the buildings.



W. W. Cluff

Young, Jr., assembled within the walls of the Temple and proceeded with the ceremonies of the occasion.

When the general conference which convened at the Salt Lake Tabernacle in October, 1876, adjourned, it was to meet in the St. George Temple on the 6th of April, 1877. Accordingly, on the morning of that day the conference was formally opened. Of the leading authorities of the Church there were in attendance President Young, his two Counselors, John W. Young* and Daniel H. Wells, eleven of the Apostles, the Patriarch and the Presiding Bishop. The prayer completing the dedication of the Temple was offered by President Wells. President Young briefly addressed the people at five of the six meetings of the conference, which was adjourned to meet at Salt Lake City in the following October. The President, however, never attended another general conference of the Church.†

The second day of the April conference at St. George witnessed the beginning of an important work connected with the closing labors of President Young. It was the initial step in the more thorough organization of the various Stakes of Zion. The first to be set in order was the St. George Stake, and after that the others throughout the Church.‡

Bancroft Library

* John W. Young was sustained as First Counselor to President Brigham Young on October 7th, 1876.

† While on the return journey to Salt Lake the President and his counselors stopped at Manti, Sanpete County, for the purpose of consecrating a temple site. This ceremony was performed at noon on Wednesday, April 25th, President Young offering the prayer and breaking the ground for the foundation. Through Beaver County the party were accompanied by a guard of about twenty-five young men. This precaution was deemed necessary because of threats said to have been made against the President's life by the sons of John D. Lee. At Logan, on May 18th another temple site was dedicated, the prayer being offered by Apostle Orson Pratt. President Young, on that as upon the previous occasion, gave instructions that the temples at Manti and Logan should be speedily pushed to completion. At the same time, under his direction, work was being vigorously prosecuted on the Salt Lake Temple.

‡ Following is a list of the presiding officers of the several Stakes, with the dates of their organization, just prior to the President's death:

April 7th.—St. George Stake (reorganized): John D. T. McAllister, President; Thomas J. Jones and Henry Eyring, Counselors.

The last time that President Young addressed a public assemblage of the people was on Sunday afternoon, August 19th, at Brigham City. The occasion was the organization of the Box Elder Stake of Zion. Aside from the particular business which took him

April 17th and 18th.—Kanab Stake: L. John Nuttall, President; Howard O. Spencer and James L. Bunting, Counselors.

April 23rd.—Panguitch Stake: James Henrie, President; George W. Sevy and Jesse W. Crosby, Jr., Counselors.

May 12th and 13th.—Salt Lake Stake: Angus M. Cannon, President; David O. Calder and Joseph E. Taylor, Counselors.

May 21st.—Cache Stake: Moses Thatcher, President; William B. Preston and Milton D. Hammond, Counselors.

May 25th and 26th.—Weber Stake (reorganized): David H. Peery, President; Lester J. Herrick and Charles F. Middleton, Counselors.

June 4th.—Utah Stake (reorganized): Abraham O. Smoot, President; David John and Harvey H. Cluff, Counselors.

June 17th.—Davis Stake: William R. Smith, President; Christopher Layton and Anson Call, Counselors.

June 24th and 25th.—Tooele Stake: Francis M. Lyman, President; James Ure and William Jeffries, Counselors.

July 1st.—Juab Stake (reorganized): George Teasdale, President; Joel Grover and Kanud H. Brown, Counselors.

July 1st.—Morgan Stake: Willard G. Smith, President; Richard Fry and Samuel Francis, Counselors.

July 4th.—Sanpete Stake: Canute Peterson, President; Henry Beal and John B. Maiben, Counselors.

July 8th and 9th.—Summit Stake: William W. Cluff, President; George G. Snyder and Alma Eldredge, Counselors.

July 14th and 15th.—Wasatch Stake: Abram Hatch, President; Thomas H. Giles and Henry S. Alexander, Counselors.

July 15th.—Sevier Stake (reorganized): Franklin Spencer, President; Albert K. Thurber and William H. Seegmiller, Counselors.

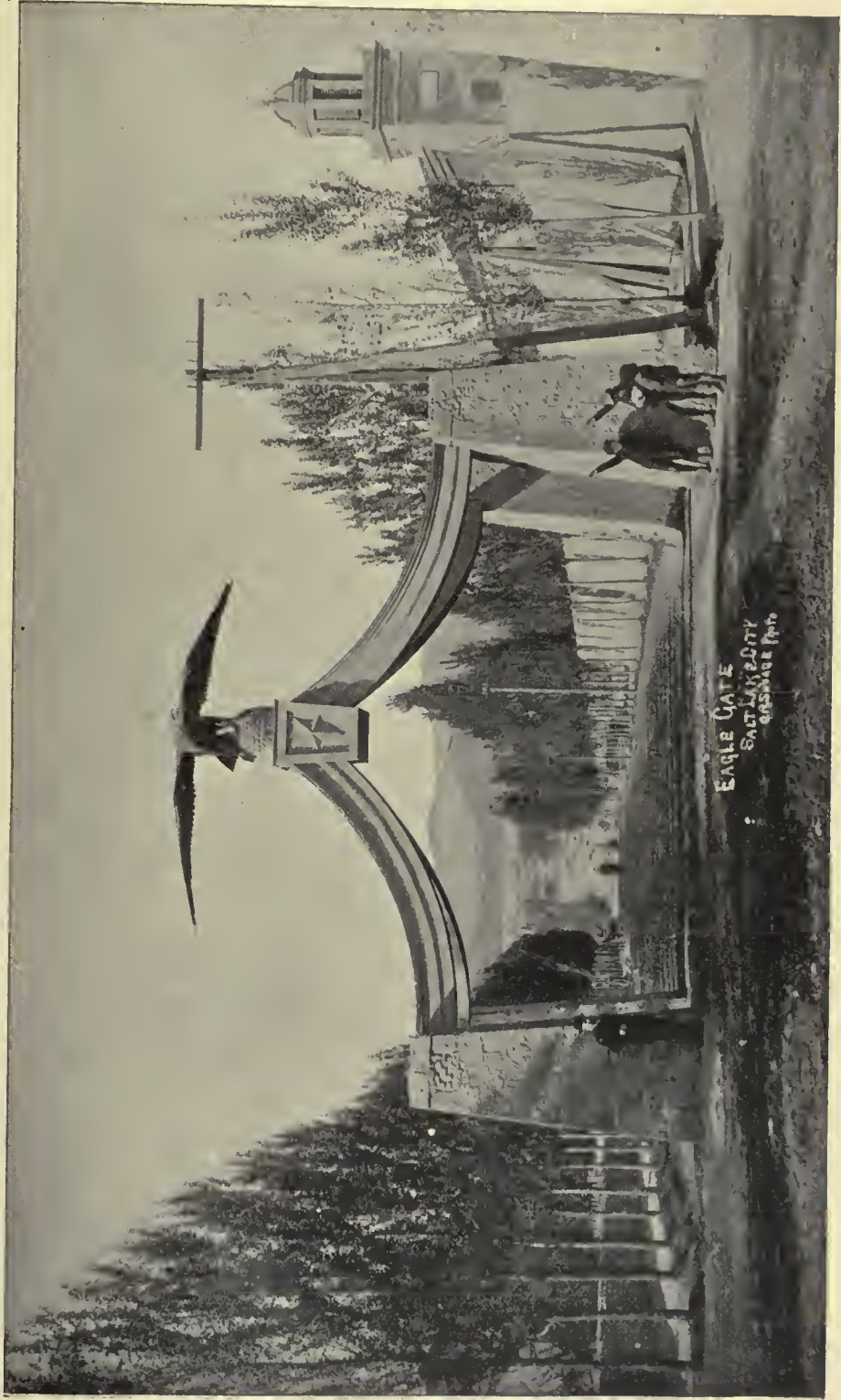
July 21st and 22nd.—Millard Stake (reorganized): Ira N. Hinckley, President; Edward Partridge and Joseph V. Robison, Counselors.

July 25th and 26th.—Beaver Stake (reorganized): John R. Murdock, President; John Ashworth and Marquis L. Shepherd, Counselors.

July 29th.—Parowan Stake: William H. Dame and Jesse N. Smith, temporary Presidents.

August 19th.—Box Elder Stake: Oliver G. Snow, President; Elijah A. Box and Isaac Smith, Counselors.

August 25th and 26th.—Bear Lake Stake (reorganized): William Budge, President; James H. Hart and George Osmond, Counselors.



EAGLE GATE
SALT LAKE CITY
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The Eagle Gate.

there, he gave the Saints special instructions regarding their duties in partaking of the Sacrament, and in training and educating their children to lives of purity and usefulness. He also strongly urged such co-operative action as would make the community self-sustaining in all its temporal interests.

Four days later—Thursday, August 23rd—he was seized with symptoms of cholera morbus. He continued to attend to his duties, however, and in the evening was present at a Bishop's meeting in the Council House at Salt Lake City.* About 11 p. m. a violent attack of nausea, added to the earlier symptoms, came on, continuing until daybreak. The pain was intense, but he endured it with characteristic patience and fortitude. On the afternoon of Saturday, the 25th, inflammation of the bowels set in, followed on Monday by extreme nervous prostration. Next day artificial respiration was resorted to for nine consecutive hours, and he seemed greatly revived. In the evening partial prostration again ensued, and his attendant physicians—Drs. Seymour B. Young, J. M. Benedict, W. F. Anderson and F. D. Benedict—considered his case as exceedingly critical. Wednesday morning indications of approaching dissolution were plainly evident, and his family were summoned to his bedside. The patient spoke occasionally when addressed by those around him, and though at times in a semi-unconscious state, retained sensibility

*The President addressed the Bishops on this occasion, dilating upon their duties, with those of Priests and Teachers, and urging them to faithfully perform the sacred tasks allotted them. After the meeting he appointed the following named committee to superintend the removal of the Old Tabernacle and the erection in its stead of another building for similar purposes: George Goddard, Henry Grow, William Asper, Thomas Taylor and Edward Brain. The result of their labors was the handsome and stately edifice known as the Assembly Hall.

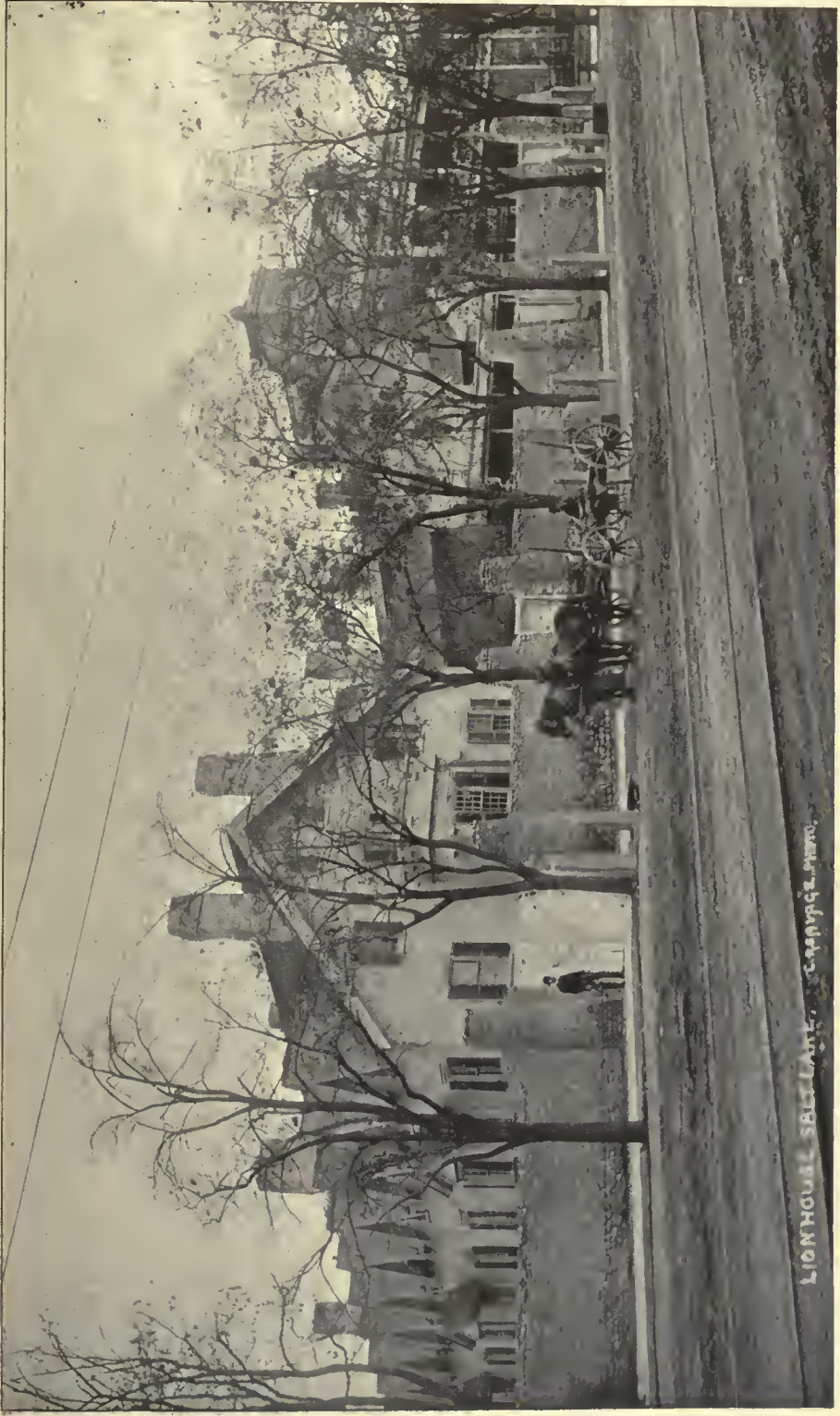
The same night, after returning home to the Lion House, President Young, after family prayers, held a conversation with Eliza R. Snow upon the project of sending several of "the sisters"—his daughters Zina and Susa included—to the eastern states to lecture on Mormonism. This was the last conversation held with him prior to his taking to his bed never again to rise. Said he in conclusion, "Well, it's an experiment, but it's an experiment I would like to see tried." Then, taking his candle, he added: "I think now I shall go and take my rest."

to the close. His last distinct words were: "Joseph, Joseph, Joseph, Joseph," followed by other expressions that were not understood. They referred, however, to the Prophet. At four o'clock in the afternoon of Wednesday, August 29th, the immortal spirit of Brigham Young passed from its earthly tabernacle.

The profound sorrow which rested like a pall upon the Latter-day Saints in all the world when it became known that their honored and beloved leader was no more, is a theme that must be left largely to the reader's imagination. As Israel mourned for Moses, so the Mormon people mourned for Brigham Young.

A few minutes after eight o'clock on the morning of Saturday, September 1st, the mortal remains of Utah's founder were conveyed by bearers, followed by male members of his family, several of the Apostles and others, from the Lion House to the Tabernacle, which had been appropriately draped for the funeral services. The coffin containing the body was encased in a metallic covering, in which was inserted a plate glass of sufficient size to admit of a view of the departed. The whole was tastefully draped with white and wreathed with flowers. At 10:30 a. m. the gates of the Temple Block were thrown open, and the crowds of anxious people who had gathered to obtain a last glance at the features of their revered leader, gained ingress to the Tabernacle enclosure. For the next twenty-five hours—the great building being kept open all night—a continuous stream of living humanity passed through, nearly twenty-five thousand people taking a farewell look at the face of the dead.

Calm and beautiful was the Sabbath morn of September 2nd, 1877. In the Tabernacle the family of the deceased, his Counselors, the Apostles, and other officers of the Priesthood, with the general public, occupied places assigned to them in the arrangements for the funeral. The vast building was entirely filled, all available standing room in the aisles and doorways being taken up. About twelve thousand people were within the building, and thousands of others, unable to gain admission, remained in the Tabernacle grounds. During the assembling of the congregation the orchestra and great



The Lion and Bee Hive Houses.

organ poured forth the solemn strains of "The Dead March in Saul," "Brigham Young's Funeral March"—composed by the organist, Joseph J. Daynes—"Wilson's Funeral March," and "Mendelsohn's Funeral March."

Precisely at noon the assemblage was called to order by Apostle George Q. Cannon, who, at the request of the family, conducted the services. The Tabernacle Choir of two hundred and twenty voices, led by Professor George Careless, sang "Hark! from afar a funeral knell." The opening prayer, offered by Apostle Franklin D. Richards, was followed by the hymn, "Thou dost not weep to weep alone." The speakers on the occasion were President Daniel H. Wells and Apostles Wilford Woodruff, Erastus Snow, George Q. Cannon and John Taylor. These addressed the people in the order named. They expressed the sentiments of sorrow that pervaded the hearts of the whole Mormon community, yet exhibited a calm resignation to the Divine will, and an unwavering confidence in the eternal power and destiny of the cause they had espoused. Apostle Cannon prefaced his remarks by reading some instructions left by President Young respecting the disposition of his earthly remains. The behests were faithfully fulfilled. A funeral hymn, composed for the occasion by Elder Charles W. Penrose, was sung by the choir, and the services at the Tabernacle closed with prayer by Elder Orson Hyde. The choir sang the hymn, "Unveil thy bosom, faithful tomb," while the funeral procession formed in the following order:

TENTH WARD BAND.

GLEE CLUB,

TABERNACLE CHOIR,

PRESS REPORTERS,

SALT LAKE CITY COUNCIL,

PRESIDENT YOUNG'S EMPLOYEES,

PRESIDENT JOSEPH YOUNG, BISHOP PHINEAS H. YOUNG, BISHOP LORENZO D. YOUNG,
AND ELDER EDWARD YOUNG, (PRESIDENT BRIGHAM YOUNG'S BROTHERS).

THE BODY,

BORNE BY CLERKS AND WORKMEN OF THE DECEASED, WITH NINE OF THE TWELVE
APOSTLES AND THE PRESIDING BISHOP AS PALL BEARERS,

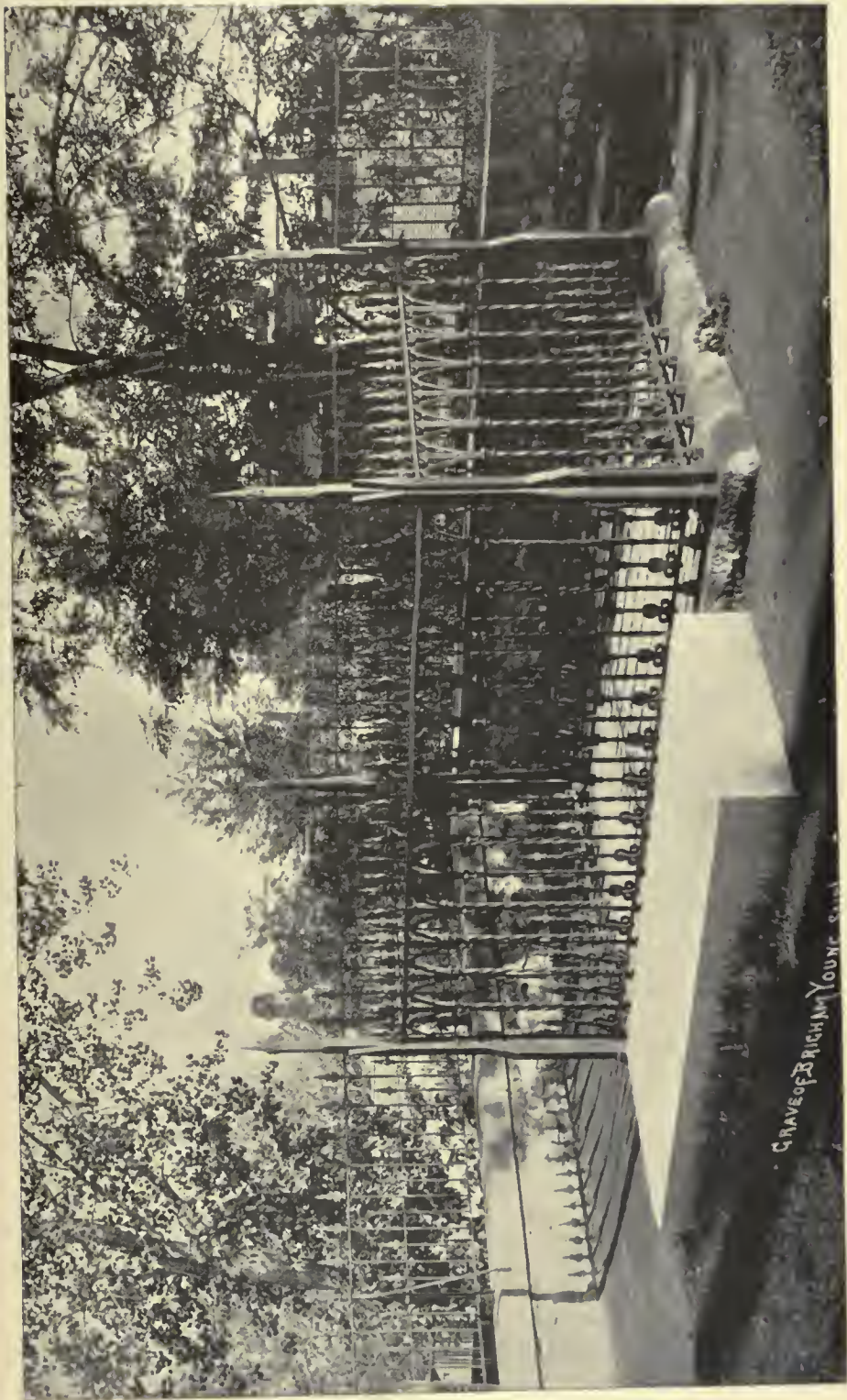
IMMEDIATELY FOLLOWING THE BODY, THE COUNSELORS OF PRESIDENT BRIGHAM YOUNG,
 THE FAMILY AND RELATIVES,
 PATRIARCH OF THE CHURCH,
 FIRST SEVEN PRESIDENTS OF SEVENTIES,
 PRESIDENCY AND HIGH COUNCIL OF THE SALT LAKE STAKE OF ZION,
 VISITING PRESIDENTS, THEIR COUNSELORS, AND HIGH COUNCILS OF VARIOUS STAKES OF ZION,
 BISHOPS AND THEIR COUNSELORS,
 HIGH PRIESTS,
 ELDERS,
 LESSER PRIESTHOOD,
 SEVENTIES.
 THE GENERAL PUBLIC.

The cortege then moved to the private cemetery of the deceased, where the body was placed in the vault prepared for it. Eliza R. Snow's beautiful invocation, "O my Father, Thou that dwellest," was sung by the Glee Club, under the leadership of Professor Charles J. Thomas; the prayer dedicating the grave was offered by Apostle Wilford Woodruff, and the most impressive funeral ever conducted in Utah was concluded.

So passed from off the stage of mortal life a mighty actor in the drama of human history. In so saying the author disclaims all desire or design to heap fulsome praise upon the subject of his eulogy. Futurity, that crucible for the present and the past, will vindicate these words and furnish full warrant for their utterance.

Greatness is not a matter of mere altitude. Notoriety is not its synonym. The highest seats in the synagogue hold not always the brightest and the best. Washington, at the head of a few ragged regiments, fighting for freedom, was greater than the British king whose despotic power and formidable armies he opposed. Bonaparte, the patriot soldier, beating back the foes of France from her invaded borders, was greater than Napoleon, the tyrant emperor, with all Europe prostrate at his feet. The throne of Augustus Cæsar was lower than the manger of the Babe of Bethlehem.

Greatness depends not upon human recognition. It has taken nigh two thousand years to convince a mere minority of our race that the Nazarene who died on Calvary was more than one of many



Grave of Brigham Young. (Within the Enclosure.)

imposters who have sought to mislead mankind,—or at all events that he was more than human. Because His own received Him not, was He therefore any less the Son of God? “If the popular breath should damn the sun in his meridian glory, dost think his beams would fall less brightly?” Greatness is a thing of fact, independent of reputation, good or evil. Like Truth, its parent, it is, and cannot be blotted out by what men think and say. Greatness is largeness, but it is the largeness of the soul, and not of the body, of the mind and heart, and not of the mortal frame. Mahomet was greater than the Mountain.

That Brigham Young was great, the world, in part, already allows. How great, is yet to all men a mystery. To solve it one must needs comprehend the man and his mission. The world does not do that today. “No man can write my history,” said Joseph Smith. The same is true of his successor. No human pen need hope to “tell it all” in relation to either. Enough is known, however, to place them among the great; and the day cometh when all shall know them—know them for what they were, and are, and not for what men say of them. That day shall inscribe among earth’s mightiest ones the name of him of whom it has been written:

He loved his people ; their high destiny
Will be a monument to Brigham Young.

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