Utah and Statehood.

Objections Considered.

SIMPLE FACTS PLAINLY TOLD.

With a Brief Synopsis of the State Constitution.

BY A RESIDENT OF UTAH.

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UTAH AND STATEHOOD.

The Utah question has assumed a new phase since a constitutional convention, composed of "Mormons," formulated an organic act providing severe penalties against bigamy and polygamy, and, under its provisions, made arrangements to apply for admission into the Union as a State. The first attempt by the Mormons to obtain the rights and privileges of Statehood was made when they colonized that part of the Great American Desert now known as Utah. As early as 1849 they sent their delegates to Washington and applied for admission into the Union. Utah was organized as a Territory in 1850, and on three occasions since then State Constitutions have been framed by the citizens through their elected delegates, and Congress has been asked to give Utah the rights and privileges of free government. This request has not been favorably considered, but the territorial bonds have been tightened, and stringent legislation has been enacted for the purpose of eradicating polygamy from the social system of the Territory. Utah has often been urged to provide against polygamy by constitutional provisions, and assured that, on doing so, her claims to recognition as a free and sovereign State would no longer be disregarded.

POLYGAMISTS OUT OF POLITICS.

Recent laws of Congress have disfranchised every polygamist and all the women voters in Utah. They are out of practical politics. Only registered citizens can vote, and they are required to take a test oath that they will obey the laws of the United States, and particularly those against polygamy and the sexual crimes forbidden by law. The monogamous Mormons, then, who form the very large majority of the population, have now the local political control. They called the Convention which formulated those provisions relative to polygamy which Congress is called upon to consider. The delegates to this Convention were elected at mass meetings held in every county, to which citizens of every political party and opinion were invited. The non-Mormons, under strong pressure from anti-Mormon leaders, refrained from taking part in the proceedings.

STATE PENALTIES AGAINST POLYGAMY.

The new Constitution was framed July 7, 1887, and ratified by popular vote on the 1st of August, on the basis of the Constitution adopted in 1882, but with the following new and important provisions :

ART. XV.—SEC. 12. Bigamy and polygamy being considered incompatible with a "republican form of government," each of them is hereby forbidden and declared a misdemeanor.

Any person who shall violate this section shall, on conviction thereof, be punished by a fine of not more than one thousand dollars and imprisonment for a term of not less than six months, nor more than three years, in the discretion of the court. This section shall be construed as operative without the aid of legislation, and the offenses prohibited by this section shall not be barred by any statute of limitation within three years after the commission of the offense, nor shall the power of pardon extend thereto until such pardon shall be approved by the President of the United States.

Article XVI. relates to Amendments, and is in the usual form, but has the following proviso :

Provided, That Section 12, Article XV., shall not be amended, revised or in any way changed, until any amendment, revision or change as proposed therein shall, in addition to the requirements of the provisions of this Article, be reported to the Congress of the United States and shall be by Congress approved and ratified, and such approval and ratification be proclaimed by the President of the United States, and if not so ratified and proclaimed said section shall remain perpetual.

These provisions were designed to meet every objection previously raised against Statehood for Utah. They are rigid, severe and practically irrevocable. The State Legislature cannot alter them. A convicted polygamist cannot escape their penalties by the clemency of a Mormon Governor, nor can the Constitution in these respects be amended by a Mormon vote.

OBJECTIONS.

But it is now argued that these very provisions are insurmountable obstacles in the way to Utah's admission as a State. First, because they are different from anything in the Constitutions of other States. Second, because they limit the State sovereignty and thus place Utah on an unequal footing with the existing States. Third, because future citizens of the State cannot be bound by present irrevocable compacts. Fourth, because no such powers as those sought to be vested in the Congress and the President are conferred by the Constitution of the United States. And it is intimated that the Mormons are not sincere in this movement; for, it is asked, how can polygamists consistently legislate against polygamy? and if the Mormons are sincere, why do they not abolish polygamy first and seek for statehood afterward? and further, why does not the Mormon Church renounce the doctrine and practice of polygamy?

These objections should be considered without prejudice. They directly affect the welfare of a large body of citizens, and indirectly of the whole United States.

UNIFORMITY NOT REQUIRED.

To the first objection the answer is, exact uniformity in the organic acts of the several States is not required by the National Constitution or the genius of our institutions, except in the particular that they must each provide for "a republican form of government," and must not conflict with the Constitution of the United States. The new Utah Constitution does provide for a republican form of government, it is modeled after the latest instruments of that character, and it contains nothing forbidden by or antagonistic to the "supreme law of the land."

LIMITATION OF SOVEREIGNTY.

Second, every State has had its sovereignty limited in certain respects by concessions to the General Government. This is the basic principle on which the several original States became united as a nation. That limitation has not been the same in the formation of every existing State. The difference between them was not thought to have the effect of placing them on "an unequal footing." Examples of this may be found in the enabling acts of Louisiana, Indiana, Texas, Nebraska and other States.

The sovereignty of Louisiana was specially limited by a provision in its Constitution, required by Congress as a condition to its admission into the Union, that its public records should be kept in the English language. No such requirement was made of any other State, because there was no necessity for it. The people of Louisiana spoke French, and it was desirable that the records should be kept in the same language as those of other States. Indiana was required to have a Constitution not only "republican in form," but "in conformity with the principles of the articles of compact between the original States and the people and States in the Territory Northwest of the River Ohio, passed on the 13th of July, 1787." This bound Indiana not to establish slavery, and therefore limited its sovereignty in a different manner to the limitations in the existing States. When Texas sought admission into the Union the condition was required that new States, not exceeding four in number, should, by the consent of the State of Texas, be formed out of the Territory thereof, those formed south of thirty-six degrees thirty minutes north latitude to be admitted into the Union with or without slavery as the people might determine,

and in those north of that line slavery to be prohibited. Nebraska, among other conditions to admission, was required to provide in its constitution "by an article *irrevocable without the consent of the Congress* of the United States: *First*, That slavery or involuntary servitude shall be forever prohibited, etc."

These citations show that new States have been admitted into the Union with different requirements, and with their respective sovereignties limited in differing particulars. Also, and this answers the third objection, they were required to bind themselves and did bind themselves, "by irrevocable decree without the consent of Congress," to establish certain provisions which were binding upon future citizens of those States. But this was not considered as placing either of them on an unequal footing with other States. A special provision, then, limiting the sovereignty of Utah, will not be unusual in principle though it may be different in form to other such limitations, and will not place Utah on an unequal footing with other States; and if it would, there is nothing in the Constitution of the United States requiring, as some people suppose, that new States shall be placed "on an equal footing with the existing States."

POWERS OF CONGRESS AND THE PRESIDENT.

Fourth. The people of Utah make no attempt to impose any duty upon Congress or the Executive. If there is nothing in the National Constitution vesting such powers in either as the Utah Constitution contemplates, there is nothing in that instrument that can be construed legitimately as forbidding their exercise; and should Congress for any reason, or without offering any reason, refuse or neglect to act on a proposed amendment to the polygamy section of the Utah Constitution, the effect would simply be that the amendment would not be valid. So, if the President should decline to act on an application for the pardon of a convicted polygamist, the prisoner would have to serve out his term. The country would not be injured, no right or privilege of any State would be invaded, no prejudice or custom or regulation of the people of the United States would be trampled upon, but polygamy would remain punishable and unpardonable. This, it would seem, is the very result which the country desires, and is therefore not open to popular objection.

VARIOUS AMENDING PROVISIONS.

The right to provide for the manner of amending a State Constitution rests in the people who frame and adopt it for their own government. There is no constitutional regulation to establish uniformity

in this particular. Some State Constitutions require a two-thirds majority vote of the Legislature and of the people, others require but a bare majority. In the State of Delaware it is requisite that the affirmative vote shall equal a majority of the largest poll cast at any of the three preceding general elections. This has bound the posterity of the people who adopted the Delaware Constitution, and has recently defeated its amendment, although the affirmative votes were an immense majority, for they fell short, by a few hundred, of the necessary constitutional number. It is said the framers of the original provision boasted that they had "locked the instrument and thrown away the key;" this was not considered an objection to the admission of Delaware, and therefore, a peculiar provision as to amendments in one particular should not be viewed as an objection to Utah's admission into the Union.

RESERVED RIGHTS OF THE PEOPLE.

One indisputable principle remains unassailable in all the controversy that has arisen on this question: Whatever may be said as to the lack of power in Congress to impose unusual requirements on newly formed States, THE PEOPLE of those incipient States have *the reserved right to limit their own sovereignty* by agreement with the General Government—that is, with all the existing States—and to make their own provisions as to amendments, pardon of convicts, etc., in any manner they choose, so long as they violate no principle of the Federal Constitution.

ARE THE MORMONS SINCERE?

The intimation that the Mormons are not sincere in making these constitutional provisions against polygamy is but a suspicion, or a conjecture. It is not an argument, and does not rise even to the dignity of a prediction. No one can tell what the State officials will do until the State is admitted and opportunities are afforded them to act. There is no more substantial reason to assert that the State of Utah will not be governed by the provisions of its own Constitution than there is to say this of any other State. The history of the Mormon people is fatal to this bare suspicion. In the financial and commercial world their business obligations stand unimpeached. Trade with them is eagerly sought, and their reputation for meeting their engagements is unexcelled. This is endorsed by the best houses and corporations in the country. It is admitted by the most pronounced anti-Mormons, and cannot be controverted. The Government has shown its estimate of Mormon character by offering freedom from imprisonment to

Mormons convicted of supporting and living with their plural wives, who would promise to obey in future the laws as construed by the Courts. Their verbal agreement was considered a sufficient guaranty of future conduct. And the fact that most of those convicted persons declined to give their word to something they could not conscientiously perform, as it would involve the repudiation and abandonment of women and children to whom they were bound by powerful obligations, and thus refused liberty at the expense of honor, speaks volumes in support of their sincerity, and gives striking evidence and solid assurance that they will live up to their expressed agreements.

Congress cannot consistently refuse a large body of citizens the common rights of large communities in this free land, on a mere conjecture. Without substantial reasons for predicating Punic faith on the part of the Utah people, the possible repudiation of their own enactments is not to be evoked as an imaginary spectre to increase prejudice and frighten statesmen into an act of political injustice. The legal and logical presumption is, that the people who have framed and adopted the provisions which have been demanded by public sentiment will enforce them as part of the supreme law of the State in the same manner as all other laws are executed. This is all that should be required or will be expected by reasonable men in or out of Congress.

ARE "POLYGAMISTS FORBIDDING POLYGAMY?"

The idea that in this movement for Statehood "polygamists are legislating against polygamy" is a great mistake. The Convention that framed the Constitution and the 13,195 male citizens who voted for its adoption, are not, and have not been polygamists. They had all taken the oath provided in the Act of Congress of March 3, 1887, which excludes from the polls all persons who have violated the laws relating to polygamy, and who will not swear they will obey the laws in future. They represent the great majority of Utah's population. They are the voting power of the Territory. The total vote of all classes at the last General Election was but 16,640, the reduction having been caused by previously mentioned restrictive congressional laws. When these people, then, are asked to put away polygamy before seeking for Statehood, their reply is: "We have never entered into it, we do not propose to enter into it; we ask for our rights as American citizens who have broken no law, and who have done all that is possible to uphold and perpetuate the law."

THE IMMEDIATE SUPPRESSION OF POLYGAMY.

There is much more involved in the summary abolition of polyga-

my than is thought of by those who demand it before Utah is admitted into the Union. Relationships have been formed during the past forty years—many of them before there was any statute of the United States against polygamy, which cannot be destroyed or ignored. There are plural wives to be supported, children to be provided for and educated, many family interests to be considered. Social chaos is not desirable. Cruelty and wrong are not demanded by the rational and humane. The discontinuance of polygamous marriages is what the country asks for, not the destruction of homes and the misery of the innocent. This is provided for in the Utah Constitution as strongly and effectually as it can be done by statute. No objector has yet been able to show what more in this direction the voting citizens of Utah can do. It cannot be expected that an organic act will be turned into a full code of laws on any subject. Offences growing out of the polygamous relation must be left to the treatment of the Legislature. Enactments against unlawful cohabitation and sexual crimes of different grades are not exactly suitable to a State Constitution, the provisions of which are general.

THE CHURCH AND THE STATE.

It must be obvious to every reflecting mind that the Mormon Church can cut no figure in this political movement. The Government of the United States cannot treat with a Church. Congress can make no compact with an ecclesiastical organization. The Mormon Church has not interfered in this matter, and it has no business to interfere. One of the provisions of the new Constitution is:

> There shall be no union of Church and State, neither shall any Church dominate the State.

What people hold as a matter of belief is not to be considered in a matter of legislation. So long as unlawful overt acts are not committed, faith in any form is perfectly free under the National Constitution. This is not a question of religion but of politics. The law-abiding voters of Utah as citizens, not as members of a Church, ask for the rights and privileges of citizens, and offer the best guaranty in their power of their devotion to the institutions of the country; that is, their past conduct and the solemn compact for the future contained in the proffered Constitution. Nothing can be urged against their plea that will stand the test of reason or obtain support from precedent. Prejudice alone can prevail in refusing their fair request. Justice cries aloud in their behalf. Wisdom suggests the sound policy of settling a vexed question in the only effectual way, the republican way, by transferring it from national to local means of solution.

THE PROPOSED SIXTEENTH AMENDMENT.

The proposition to postpone the admission of Utah until an amendment is made to the National Constitution providing against polygamy, will be seen on examination to be inexpedient. Every State in the Union has already protected monogamy by law. Utah, if admitted, will be more pronounced against polygamy than the other States, having made it penal by Constitutional provisions. Thus the whole country will be united on this question without further action, and the Federal Constitution will not be hampered with a needless amendment, nor commence to interfere with matters which properly belong to the individual States. When Congress is armed with power to intrude into those domestic affairs of the several States which peculiarly belong to their respective jurisdictions, a dangerous change will have taken place in the very genius of our system of government. It will be time enough to consider the propriety of such an amendment as that proposed, when a State of the Union establishes polygamy by law or neglects to enforce constitutional or legislative provisions for its suppression.

CONDITION OF UTAH.

The population of Utah numbers nearly 200,000. It is composed of industrious, thrifty and temperate people, the masses of whom have not violated the laws of the United States. They have given ample proofs of their capacity for self-government. Their Territory is out of debt. Their cities and towns, their farms and fields, their factories and workshops, their trade and commerce, their order and co-operation, speak eloquently for their vigor, enterprise and skill. They have been the pioneers of civilization in the Great West. They have carved a State out of a desert and made possible the speedy establishment of several States in the surrounding wilderness. The anomalous territorial system cannot be much longer maintained, and to deny them the common privileges of citizens under the Constitution of the United States would appear to everybody with reason as unnecessary and unjust, if it were not for the social custom which has been actually practised by but comparatively few of their number. This they now propose to punish by local regulation. They mean what they say. No one can doubt this who has made impartial personal inquiry. The monogamists, who alone hold the political power, declare they will rigidly enforce the anti-polygamy provisions. The disfranchised polygamists say they expect those provisions to be enforced and will accept the situation.

This is the great opportunity for which the most thoughtful of our national statesmen have been waiting. It will relieve the country of an embarrassing and perplexing problem. There is no other way to settle it effectually. Admit Utah into the Union with State provisions against bigamy and polygamy, and the object desired will be achieved. Reject her, after her people have yielded to the wishes of the Nation, and what good result will be accomplished? There is something more involved than the admission of a new State into the Union; it is the settlement of a question that has puzzled legislators, philosophers, social scientists, and thinking people in every part of the country. Now is the time to dispose of it in a peaceful, constitutional and rational manner with a due regard both for the interests of a large body of citizens respectfully asking for political liberty, and of this great nation which should be just and can afford to be generous.

SYNOPSIS OF THE UTAH STATE CONSTITUTION.

The Constitution of the State of Utah, in its Bill of Rights, forbids the union of Church and State; the domination of the State by any Church; a religious test for voters, office-holders or witnesses; excessive bail; laws abridging the freedom of speech or of the press; imprisonment for debt; discrimination against foreigners as to rights of property, &c.

It protects the right to worship God according to the dictates of conscience; the right of trial by jury—five-sixths may render a verdict in civil cases; representation according to population; the uniform operation of general laws; the security of citizens against searches and seizures, &c.

The suffrage is given to male citizens of the United States of the age of twenty-one years and over, unless convicted of treason or felony, who have resided in the State six months and in the voting precinct thirty days next preceding any election, and who have been lawfully registered; all elections to be by secret ballot.

The Legislature to be composed of a Senate and House of Representatives, chosen biennially by the qualified electors of their respective districts. The senators to hold office for four years: their number at first to be twelve and afterwards not more than thirty. The representatives to hold office two years, their number to be double that of the senators; vacancies to be filled by election ordered by the Governor. The usual provisions are made for the regulation of the Legislature, passage and approval of bills, &c.

The executive power is vested in a Governor and Lieutenant-Governor, having the customary authority, and a Secretary of State, Treasurer, Auditor, Surveyor-General and Attorney-General, all to be elected at the same time, whose respective duties are defined as in other States.

The judiciary is to be composed of a supreme court, circuit courts, and such inferior courts as may be established by law. The supreme court to consist of a chief justice and two associate justices, with appelate jurisdiction under the laws of the State and original jurisdiction as to writs of mandamus, certiorari, prohibition, quo warranto,

habeas corpus, etc. Four judicial circuits, to be increased in number as may be necessary, with a judge in each, holding chancery and common law jurisdiction and the usual powers of such courts. The senators, and executive and judicial officers to be qualified electors who have attained the age of twenty-five years, and, except at the first election, have been residents of the State for two years.

Uniform and equal taxation is provided for, and restrictions made against State assumption or guarantee of county, city, town, village, corporation or individual debts, and any State debt above three per cent. of the taxable property.

Provision is made for a uniform system of public schools, in which no sectarian or denominational doctrine shall be taught, and no teacher employed or rejected on account of his belief in or connection with any creed or sect. A State university is provided for and also the education of the blind and mute, as well as institutions for their care and of the insane and the indigent; also for State and County prisons.

The boundaries of the State are to be those of the Territory, the seat of government at Salt Lake City; a plurality of votes to constitute a choice at elections; no person to be eligible to office who is not an elector and does not take an oath to support the Constitution of the United States and of Utah, and faithfully discharge the duties of his office.

Bigamy and polygamy are forbidden and made punishable by fine not exceeding one thousand dollars and imprisonment for not less than six months nor more than three years; no statute of limitations to bar prosecution within three years after the offence, and no pardon to apply unless approved by the President of the United States.

Amendments to the Constitution may be made by a majority vote of both houses of two succeeding Legislatures, and of the qualified electors voting thereon. But any amendment of the polygamy section is to be invalid without the ratification of Congress and proclamation by the President of the United States.

All rights, actions, prosecutions, judgments, claims, contracts, &c., under the Territory are to be continued as if no change had taken place, and all fines, penalties, recognizances. etc., are to hold good.

Representative districts are arranged and provisions made for the first election under the State, and all interests protected during the change from a territorial to a State government.