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S P E E C H

OF

Hon. JOHN F. KINNEY, of Utah,

d. 1902

UPON

THE TERRITORIES

AND

THE SETTLEMENT OF UTAH.

Delivered in the House of Representatives, March 17, 1864.

WASHINGTON:

H. POLKINHORN, PRINTER, 375 AND 377 D STREET, NEAR SEVENTH.
1864.

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This being the day set apart for Territorial business—the House being in Committee of the Whole on the State of the Union—

Mr. KINNEY said :

Mr. CHAIRMAN, Delegates are to a great extent dependent upon the courtesy and liberality of the House for such legislation as their Territories require. With no vote in this body, with no one in the other branch of the national Congress directly interested in measures of legislation affecting the welfare of their people, we look to you with a feeling and hope not unlike that which actuates the child when addressing the parent, asking for food and clothing for the nourishment and protection of the body. Indeed, sir, the relation of the Territory to the parent Government may not inaptly be compared to that existing between the child and parent. You, sir, breathed us into existence; by your legislation were we created; by your bestowments do we, as an organization, maintain our territorial government. The Federal Government, as our presiding head, appoints our officers and appropriates the money for paying our executive, legislative, and judicial expenses. All this, yea, more, kindness, attention to, and respect for our lesser wants, are all due from the parent Government during our minority.

But, Mr. Chairman, as the child growing into manhood naturally feels restive under restraint, humiliated by control, desiring to be freed from servient obligation, and to exchange it for the full liberty of noble, dignified manhood, so with Territories; after passing through the restraints of youth and arriving at the full status of State manhood, they naturally long for the liberty, the independence, and blessings which alone are to be found in providing for their own wants and maintaining their own existence.

But, sir, territorial relation is unlike that of the child in this: there is no prescribed time of service due to the parent Government. While the son, at the age of eighteen years, may be physically and mentally qualified for the stern duties of life, he still owes allegiance to the parent until he attains the mature age of "twenty-one." Not so with the Territory. No time is fixed, either by the Constitution or law or by any well-settled rule, when the relation of territorial dependence shall cease and that of State manhood commence. Depravity and crime have made it necessary to ordain governments, enact, administer, and enforce law, that the guilty may be punished and thereby the innocent protected. Experience, however, has proved that a republican Government, securing to the people the largest possible amount of liberty consistent with protection to life, liberty, and property, is better adapted to the wants, prosperity, and happiness of man, than any other that has ever been devised. Such a Government did our fathers ordain for us, and it is to be fervently hoped that summary and retributive punishment will speedily overtake those who are endeavoring to destroy it.

ARE TERRITORIAL GOVERNMENTS REPUBLICAN.

But, Mr. Chairman, it has well been questioned whether a territorial form of government, such as now exists, is consistent with the principles of our republican Government as established under the Federal Constitution. With becoming deference to the opinions of others, and in a spirit of enquiry which only seeks to expose the true character of these governments with a view to change, I may be permitted

to examine them by the lights which the history of the country and the principles of the Constitution afford.

The rule among jurists in construing former statutes is to inquire, first, what was the old law; second, what was the mischief complained of; and third, what was the remedy intended or provided by the subsequent statute? Let us apply this rule in construing our Constitution or form of Federal Government. What, then, was the old law under the colonial government? I answer, taxation without representation and the appointment of officers to rule over the people without their consent.

What was the mischief complained of? Simply the oppressive and despotic tendency of such unjust laws, the enactment by the British Parliament of statutes for the government of the colonies without allowing them either voice or vote in the forum enunciating the law, and the appointment of men to office in the colonies from Great Britain who had no interest in common with the people.

Mr. Chairman, the war of the Revolution was fought to get rid of this kind of government imposed upon the colonies, to destroy the divine right of kings to rule over the people without their consent, to establish free government, with taxation and representation inseparably united, and to give the people (the source of power) the right to choose their own officers, especially those intrusted with the law-making power. This, I repeat, was the remedy intended for the mischief, under the old *regime*, by the fathers of the Revolution. The appeal to the God of battles was not in vain. The weaker became the stronger party. The divine right of man to govern himself triumphed; and our republican Government was established, the Federal Constitution was adopted, an elective Congress created, but clothed with certain well-defined powers, and prohibited from the exercise of any but those that were delegated.

POWER OF CONGRESS TO ORGANIZE TERRITORIAL GOVERNMENTS.

In looking into the Constitution, however, we find no express power conferred upon Congress to organize territorial governments. As Congress derives all its power from the Constitution, it follows, as a necessary sequence, that it must be confined in its legislation to the exercise of only such as are therein enumerated. But it has been said that the power lurks in the second section of the fourth article of the Constitution:

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the Territory or other property belonging to the United States."

By this section Congress may do two things: first, dispose of the territory, that is the land, alienate the title; second, make needful rules and regulations respecting the territory, the land, timber, the manner of alienation. I believe in no place else in the Constitution is the word "territory" used. Here it is used as property, clearly so, as the words "other property," immediately following, determine its signification, and force the mind to the conclusion that it was intended in that sense, and in that sense alone. Territorial governments are the "rules and regulations" for the people, and not for the territory; and as the people are not property, you cannot rely upon this clause in the Constitution as the basis of power for their government.

But it is said that with the right to acquire is coupled the right to

govern. This is true when applied in a military sense; but how can it be true in a legislative sense, providing Congress derives all of its authority from the enumerated powers of the Constitution, and providing the power to govern by the formation of territorial governments is nowhere conferred?

The first section of the first article of the Constitution is as follows: "All legislative power herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

The words "herein granted" confine Congress in its legislation within the scope of the specified powers therein expressed. But not to dwell; grant that the power is derived from the Constitution, it follows that your territorial courts, created by act of Congress, based upon the Constitution, should be organized as provided in the first section of the third article. It reads as follows:

"The judicial power of the United States shall be vested in one Supreme Court and such inferior courts as the Congress may from time to time ordain and establish. The judges both of the supreme and inferior courts shall hold their offices during good behavior."

Congress derives its power to establish inferior courts from a clause in the eighth section of the first article, among the enumerated powers, to wit: "to constitute tribunals inferior to the Supreme Court;" but section one of the third article above cited vests the judicial power of the United States in the supreme and such inferior courts as Congress may ordain and establish, and the judges thereof shall hold their offices during good behavior. All territorial courts established by Congress are United States courts. The judicial power of the United States is in part vested in these courts. The only power to ordain them that Congress has is derived from the Constitution. Yet, strange to say, the law creating these territorial courts as the judicial department of the territorial government, provides for the appointment of the judges for four years; and who does not know that it has been and is the practice of the President to remove these judges at pleasure?

It follows, then, if we look to the Constitution for the authority for these territorial governments, we are in doubt, trouble and embarrassment, and I am at a loss to find the source of power, except we resort to that full and overflowing fountain, "the *Dred Scott decision*."

My only object in calling the attention of the House to the Constitutional question involved is that the difficulty may be obviated by admitting these Territories as soon as possible. If the question is asked, How are the people to be governed prior to admission into the Union? I answer, in the language of articles nine and ten of the Amendments to the Constitution:

"ART. 9. The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

"ART. 10. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

CHARACTER OF TERRITORIAL GOVERNMENT.

But, sir, these territorial governments once established, what is their character? Are they republican? Not, Mr. Chairman, if you mean by the word republican the right of the people to elect their own rulers. I said in the commencement that it had been gravely questioned whether our territorial governments were consistent with the principles of our republican government. Our fathers fought to get rid of the old law—officers to rule over them without their consent, taxation without

representation—and it has been generally understood, perhaps erroneously, that they were successful; that they planted upon American soil American liberty, taxation and representation, both growing upon the same stalk, and self-government, free and universal suffrage among the people, as the most precious fruits of the Revolution.

But how is it with your territorial governments? I answer, mere colonies, occupying much the same relation to the General Government as the colonies did to the British Government prior to the Revolution. You give them the form of a government, but withhold from the people the right of the elective franchise. You appoint their Governor, their judges, their marshal, and their district attorney, and too often impose these officers upon them from a class of men who have no interest in common with the people, and know nothing of the trials and struggles of their infant settlement. Aside from this anti-republican feature, it is a serious hardship to the people of our western Territories, who are forming the nucleus of mighty States. Bold and enterprising, full of adventure and intelligence, the hardy pioneer turns his back upon the refinements of civilization, and with his family penetrates the unexplored West, and there establishes the foundation of a great empire, which in a few years is destined to make you powerful among the nations of the earth. Who can, who dare deny them the right secured to them, as was supposed, by their fathers, that of selecting from their number their own men to administer the affairs of the new colony? But such has not been the practice of the Government.

It is said they have the right to elect members to the Legislature to form their own laws. This is true; but of what avail is this right in the Territory I represent, when the Governor, who is appointed by the President and consent of the Senate, has an absolute veto upon all their legislation?

The members of the Council and House may have been unanimously chosen by the people, understanding their local wants; may pass without a dissenting vote in either branch such bills as the interests of their constituents may require, and when sent to the Governor, who is fresh from some of our northern cities, unless it meet with his royal sanction, their legislation is all in vain. He is not even required to veto the bill and return it to the House, from whence it originated, with his objections. It must be approved by him, or it cannot become a law. Hence he has only to deposit the bill in his capacious pocket, treat the Legislature with supreme contempt, as his negative power overcomes and over-rides the united action of an entire legislative body. So arbitrarily was this power exercised over the legislation of Utah, during the session of 1862-63, that only two bills of a general nature, and they unimportant, met with executive favor. The vital legislation of that session, the appropriation and other important bills, passed during a session of forty days, were summarily ignored by "His Excellency," and that, too, without even deigning to stoop from the giddy height of gubernatorial elevation to return the bills to the Legislature with his objections.

Mr. Chairman, the very first cause of complaint against King George by our fathers, as recorded in the Declaration of Independence, is the following:

"He has refused his assent to laws the most wholesome and necessary for the public good."

Comment is unnecessary. The analogy is too striking; and I leave it for the future historian to determine the respective merits of George III and Stephen S. Harding, late Governor of Utah.

TAXATION AND REPRESENTATION.

But I have referred to the causes of the Revolution, and, as one of those, taxation without representation. Do the people of Territories pay a tax? Most certainly, upon all foreign articles which they consume they pay the same tax as the people of States according to their consumption. Have they any representation in the Congress, where the tax on foreign imports is levied? Not at all, sir. It is true that each Territory is allowed a Delegate in Congress; but he has no vote and cannot record the will of his constituents upon any of those questions of legislation that may be pending, seriously affecting their interests. It is the right to vote that constitutes representation, and without this right there is no proper representation. Why is this representation denied the people of the Territories? I answer, first, because territorial governments were not provided for in the Constitution. Second, because the second section of the Constitution provides as follows:

“Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers,” &c.

Is it not a little strange, Mr. Chairman, that while you deny us representation because of this inhibition, or rather because of this inclusion of States as alone entitled to representation, you levy a direct tax upon the Territories which is equally forbidden in the same sentence? “Representatives and direct taxes shall be apportioned among the several States.” Hence Territories never have been represented by vote in Congress, and cannot be while this section remains. But representation and direct taxation are conjoined in the sentence, and if by it Territories are excluded from representation, are they not alike excluded from direct taxation? But so far as the people I represent are concerned, when your direct tax was assessed against them, they raised no constitutional question; they made no objection. They did not stop to inquire whether it was constitutional or not. It was enough for them to know that the nation was struggling to put down a rebellion whose gigantic proportions had no parallel in history; and, true to their impulses of loyalty, they at once assumed the payment of this tax by an act of the Legislative Assembly, as follows:

“*Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That the said Territory does hereby assume the direct tax apportioned to said Territory, agreeably to an act of Congress entitled ‘An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes’, approved August 5, 1861; and that the Governor of the Territory so notify the Secretary of the Treasury of the United States, on or before the 2d day February next.*” Approved Jan. 17, 1862.

This tax has been collected from the people without objection or complaint.

SETTLEMENT OF UTAH.

But, Mr. Chairman, to pass to another branch of my subject. Probably no settlement has ever been made on this continent under more painful circumstances than those attending the first settlement of Utah. I will not pause at this time to relate the tragic story; to recount wrongs inflicted; to describe the patient suffering of the people, as they slowly journeyed, the aged, the sick, the infirm, across an unexplored country, (twelve hundred miles of it through hostile tribes of Indians,) until

they penetrated, and, worn down with exposure and fatigue, halted in the very centre of the great western desert. Nor stop to tell you how, here, with provisions exhausted, they, in a half famished condition, subsisted, until they raised the first crop, upon roots dug from the mountains, or how at times they were compelled to eat the hide that was taken from the faithful ox that had been their companion in toil. I will not ask you to go with me in imagination over the road which they first made across the continent, and which, if all trace were obliterated, could still be readily found by the graves left behind, standing as lonely, solitary milestones, to remind the traveler as he journeys from east to west, and passes these mournful monuments of their sufferings, how cruel it was to drive loyal American citizens from American soil. All this, yea, more, the patient spirit of the people under greater sufferings, more terrible affliction, pledges broken, property destroyed, life taken, have all passed into history, and the picture of persecution and cruelty will some day startle the student as we are startled in reading the history of the reformation in the sixteenth century.

SETTLEMENT OF UTAH AND CONDITION OF THE COUNTRY.

But, Mr. Chairman, while I would avoid the history of their complaints, preferring to cicatrize and heal up an old and painful wound, inflicted without cause, I must be permitted to speak of their achievements. The history of the settlement of Utah is full of interest. The development, thus far, of the country has been attended with wonderful results. In the summer of 1847, the pioneer company reached the Valley of the Great Salt Lake, and on the 24th day of July, a day which will be ever memorable in their history as the day of their deliverance from long, weary marches across the plains, they prostrated themselves before that divine Power that had preserved them not only from their enemies, but from the tomahawk and scalping-knife of the savage, and offered up the gratitude of humble hearts for the asylum afforded them in the chambers of the mountains. The country was, in all respects, forbidding. The heavens withheld the early and latter rain. The ground was parched and baked with heat and drought, and the eye rested upon naught save rugged mountains, sterile and arid valleys. The Indian held undisputed control, and no evidences were to be found that civilization had ventured so far into the secret caves of the mountains. With provisions exhausted, near fifteen hundred miles from cultivated fields, far, far into the interior, from all supplies, with mountains over their heads and a desert beneath their feet, it is not strange to suppose that the mind naturally wandered back to the comfortable homes, the result of their own industry, of which they had been deprived in the country of their birth. They were now in a foreign land, standing upon foreign soil, in a Mexican province. Still, the old stars and stripes were flung to the breeze, and appeared even more glorious and beautiful than usual on this the day of a new era in their history. But, Mr. Chairman, all were not there. Some had fallen by the wayside, not able to endure the exposure and hardships which the fate of cruel circumstances had forced upon them. The babe slept quietly upon the plains. The aged father had fallen—the old, familiar staff, unable longer to sustain its burden. The youthful maiden, unaccustomed to such hardships, had

yielded her frail form to the kind deliverer, and the heart-broken parents performed the last solemn ceremony by gathering up stones and placing them over her resting-place, to protect the form, that was still beautiful in death, from the prey of the American hyena.

A NUMBER OF MEN ABSENT, AND THEIR ABSENCE EXPLAINED.

But aside from those who had fallen victims upon the plains, there were those that were living who would have been glad to have been permitted to associate with their friends and brethren on an occasion so interesting as the one I have mentioned—the arrival of the pioneers in the Valley of the Great Salt Lake. There were five hundred of these brave, hardy, and stalwart men, who were almost indispensable to the formation of a settlement in this new country, that seemed to mock in derision the efforts of man to subdue and reclaim it. The future home of these men was here. Their families were here. Their interests, hopes of the future, and all that was dear to them in life clustered around and were associated with the pioneers in their efforts to establish a colony on the west side of the Wasatch range of the Rocky mountains. Why was it that these five hundred men were not present at the "dedication?" Did they linger behind? Oh, no! Had they proved false to their faith, and deserted it in the hour of danger and trial? Not at all, sir. Why, then, is their place vacant; and why is to be seen among this group of pioneers such a large proportion of aged and infirm men? I will tell you, Mr. Chairman. After these men had been exiled, and after they had traveled across unsettled Iowa with the flag which now floats so proudly over the pioneer camp, borne at the head of their column, and after they had gone into tents on the banks of the Missouri river, an order came from the President of the United States asking them to furnish five hundred men as volunteers to assist in preserving the honor of the nation in a war with a foreign Power.

As pertinent to this piece of history, I have taken the following extract from the able official report of Captain Stansbury's exploration and survey of the Great Salt Lake valley, published among the Executive Documents, special session, March, 1851. After speaking of the injuries which the people had received and the wrongs which they had endured, Captain Stansbury says:

"But from all I saw and heard, I deem it but simple justice to say, that notwithstanding these causes of irritation, a more loyal and patriotic people cannot be found within the limits of the Union. This I think was emphatically shown in the promptitude and cheerfulness with which they responded to the call of the Government to furnish a battalion for service during the Mexican war. While in the heart of an Indian country, and on the eve of a long and uncertain pilgrimage into an unknown wilderness, they were suddenly called upon to surrender five hundred of their best men to the hazards of a hostile campaign, and to the exposure and vicissitudes of a march of two thousand miles across trackless deserts and burning plains to fight the battles of their country. Their peculiar circumstances presented almost insuperable objection to a compliance with the requisition, yet not the slightest hesitation was evinced. "You shall have your battalion at once," was the reply of President Young, "if it has to be a class of our elders;" and in three days the force, recruited principally among fathers of families, was raised and ready to march. Here, certainly, was no evidence of lack of patriotism."—*Report*, pp. 144, 145.

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Colonel J. Allen, who raised what is known as the Mormon battalion under the peculiar circumstances spoken of by Captain Stansbury, before his departure sends to J. C. Little, Esq., a letter of which the following is a true copy:

HEADQUARTERS MORMON BATTALION, COUNCIL BLUFFS, July 20, 1846.

DEAR SIR: Colonel Kane has informed me of your intended departure for the East, and of your desire that I would express to you my opinion concerning the character of the Mormon people as derived from my observation among them on my present duties.

I have been intimately associated with this people since the 26th ultimo, as my duty required in raising the battalion of volunteers now under my command. In the hurry of business connected with my immediate march from this place I have only time to say that in all my intercourse with the Mormons I have found them civil, polite, and honest as a people. There appears to be much intelligence among them, particularly with their principal men or leaders, to whom I feel much indebted for their active and zealous exertions to raise the volunteer force that I was authorized to ask for for the service of the United States.

The president of the council, Mr. Brigham Young, is entitled to my particular thanks. All of this people are entirely patriotic, and they have come with cheerfulness, but under circumstances of great difficulty to them, to enlist themselves in the service of their country.

In my official report to the War Department, which I shall make on my arrival at Fort Leavenworth, I will speak more fully of the community of the Mormon people, or Mormon church, and will here say to you that I think them, as a community in their circumstances, deserving of a high consideration from our Government.

Very respectfully, your obedient servant, J. ALLEN,
Lt. Col. Comd'g Mormon Battalion.

J. C. LITTLE, Esq.
Colonel P. St. George Cooke, who commanded the battalion, after he reaches the shores of the Pacific, issues the following order:
[Orders No. 1.]

HEADQUARTERS MORMON BATTALION,
MISSION OF SAN DIEGO, January 30, 1847.

The lieutenant colonel commanding congratulates the battalion on their safe arrival on the shores of the Pacific ocean and the conclusion of its march of over two thousand miles. History may be searched in vain for an equal march of infantry. Nine-tenths of it has been through a wilderness where nothing but savages and wild beasts are found, or deserts where, for want of water, there is no living creature. There, with almost hopeless labor, we have dug deep wells, which the future traveler will enjoy. Without a guide who had traversed them we have ventured into trackless prairies, where water was not found for several marches. With crowbar and pick and ax in hand, we have worked our way over mountains which seemed to defy aught save the wild goat, and hewed a passage through a chasm of living rock more narrow than our wagons. To bring these first wagons to the Pacific we have preserved the strength of the mules by herding them over over-large tracts, which you have laboriously guarded without loss. The garrisons of four presidios of Sonora concentrated within the walls of Tucson gave us no pause. We drove them out with their artillery; but our intercourse with the citizens was unmarked by a single act of injustice. Thus marching, half naked and half fed, and living upon wild animals, we have discovered and made a road of great value to our country.

Arrived at the first settlement of California, after a single day's rest you cheerfully turned off from the route to this point of promised repose to enter upon a campaign and meet, as we believed, the approach of the enemy; and this, too, without even salt to season your sole subsistence of fresh meat.

Lieutenants A. J. Smith and George Stoneman, of the first dragoons, have shared and given you valuable aid in all these labors.

Thus, volunteers, you have exhibited some high and essential qualities of veterans. But much remains undone. Soon you will turn your strict attention to the drill, to system and order, to forms also, which are all necessary to the soldier.

By order of Lt. Col. P. St. George Cooke. P. C. MERRILL, Adjutant.

Those official papers explain the absence of the five hundred men on the day the pioneers reached their new home "in the valleys of the mountains." They were proving their fidelity to their country, their devotion to its flag, by fighting under the stars and stripes of that banner which is now planted, for the first time, upon soil which never before was penetrated by civilization.

THE PEOPLE PIONEERS IN ENTERPRISE.

But, sir, these people were no strangers to pioneer life. They were pioneers in Missouri, and published the first newspaper west of Jefferson city, I think in 1831. They were pioneers in western Illinois, and built the beautiful city of Nauvoo. They first settled western Iowa,

published the first paper in that part of the State, and made a settlement where now stands the thriving city of Council Bluffs. They landed the first ship freighted with emigrant settlers where now stands San Francisco, a city unrivaled in wealth, population, and commercial importance for its age in the history of the world; a city which we, as Americans, are all so proud of. They were the first of our American citizens to remove the earth and unkenneled the gold, which had lain for ages in its undiscovered resting-place, the result of which revolutionized the commercial world. These are all facts which have passed into and become a part of the history of the country. Wherever they have been industry and enterprise have marked their progress.

SUBJECT OF THE SETTLEMENT OF UTAH RESUMED.

But, sir, to return to the settlement of Utah. This settlement was commenced when that which now constitutes Utah belonged to Mexico. The treaty of Guadalupe Hidalgo, if I am not mistaken, by which our extreme western and south-western possessions were acquired, was not signed until February, 1848, six months after the pioneer settlement. While the brave Mormon battalion, under its gallant leader, were enduring the sufferings of a military campaign in Mexico, their brethren and families were planting American civilization and American industry in a Mexican province, where the red man had for ages held undisputed dominion. The country was a desert, so known in your geographies and upon your maps. It was uninhabited, except by the Indian, and understood to be uninhabitable for purposes of cultivation. High ranges of mountains towering into the very heavens, covered with perpetual snow, deep gorges, narrow and impassable canons, chasms, and fissures, everywhere surrounded the small valleys which reposed in wild and undisturbed nature at their base, presenting a cold and cheerless prospect to an agricultural people. Experimental cultivation had never been tried, and so confident was the old mountaineer and Indian trader Captain Bridger that when tried it would prove a failure, that he offered \$1,000 to the bold pioneers for the first ear of corn that was raised. Add to these frowns of nature, the appalling fact that the country was destitute of rain, and that death from starvation must be the inevitable result if they failed to raise a crop, and you may well imagine how a people with less faith would have felt situated as they were.

But, sir, this was not all. The company, consisting of men, women, and children, had penetrated twelve hundred miles west through a continuous Indian country. Eight hundred miles still further west to the Pacific was an unbroken Indian country; while to the north for six hundred miles the Bannocks and Flat-Heads kept the white man at bay and from occupying the inviting valleys of the Willamette and Columbia, and for almost an unknown distance on the south the Utes, Pah-Utes, Pi-Utes, and Navajos held proud and undisputed possession.

This, sir, is a mere glance at the condition of the country at the time the pioneers arrived and commenced their first settlement in July, 1847. Still, under such circumstances, which Captain Stansbury well says were enough to appall the stoutest heart, they faltered not, but under the direction of their wise president, Brigham Young, they went to work, building forts for protection against the Indians, erecting their

houses, laying out their city, planting fields, digging ditches for irrigation, and making preparation for the subsistence of human life. Only four years afterwards Captain Stansbury in his report uses the following language in speaking of Great Salt Lake City, where the first settlement was commenced:

"When it is remembered that within the the space of four years this country was but a wild and dreary wilderness, where the howl of the wolf and the yell of the miserable Indian alone awoke the echoes of the mountains, and where the bear, the deer, and antelope roamed securely over what is now a compact and populous city; that the physical obstacles to the occupation of a region so unpromising were sufficient to discourage the most sanguine imagination and to appall the stoutest heart, the mind is filled with wonder at witnessing the immense results which have been accomplished in so short a time, and from a beginning apparently so insignificant."—Page 144.

PROSPERITY OF THE SETTLEMENT.

But, sir, the people have been blessed in their efforts to subdue the desert. The city here mentioned by Captain Stansbury has now a population of about fifteen thousand people, with nearly every branch of mechanical and manufacturing industry represented, and not a drinking saloon, a billiard saloon, or a bowling saloon to demoralize the people and check the onward progress of industry. What city in America of its population can say as much? It is truly a gem in the desert. The half-way house to the Pacific, it is a most convenient resting-place for the traveler after journeying twelve hundred miles over plains of sand, without a tree or shrub save the constantly recurring sage, and before encountering a desert which still lies before him, a distance of six hundred miles, before he reaches the Sierra Nevada.

The comparatively small beginning in 1847 has grown and lengthened until now the settlements extend a distance of five hundred miles north and south; and wherever a valley can be found that can be watered, there you will find the industrious, uncomplaining settler, making an honest living in the way most congenial to nature and most conducive to health, by the cultivation of the soil. Not only are the ordinary vegetables and cereals produced, but in the southern part of the Territory they are raising cotton, and last year exported some tons to the States, the product of free white labor, thereby removing the objection of some of our eastern friends to the use of this necessary article. In a word, the desert has been converted into the fruitful field, and the frowns of nature exchanged for smiles and gladness.

But, Mr. Chairman, all this has been the result of constant, uncomplaining toil, great hardship and exposure, and often the sacrifice of life. For the first few years of the infant settlements, the people were compelled to huddle together, and build and live in forts for protection against the jealous hostility of the Indians. Their policy has been to feed and not to fight them. It has been estimated that it has not cost the people less than \$100,000 annually to support these wards of the General Government since 1847, making a total of \$1,600,000. During the same period what have your Indian wars in Oregon cost the Government? in New Mexico? and the Indian service in California? More, I venture the assertion, in one year than the Government has paid for Indian service during the entire time Utah has been a Territory.

APPOINTMENT OF GOVERNOR.

To the peaceful, wise, and conciliatory policy pursued by Governor Brigham Young, who was appointed Governor and *ex officio* superin-

tendent of Indian affairs by Mr. Fillmore on the organization of the territorial government, and who was continued in office over seven years, is to be attributed the fact that Utah has not been afflicted with Indian wars as have other Territories. By this policy vast sums of money have been saved to the United States.

In relation to the appointment of Governor Young, Captain Stansbury, on pp. 144-147, says :

"Upon the action of the Executive in the appointment of the officers within the newly created Territory, it does not become me to offer other than a very diffident opinion.

"Yet the opportunities of information to which allusion has already been made may perhaps justify me in presenting the result of my own observations on this subject. With all due deference, then, I feel constrained to say that, in my opinion, the appointment of the President of the Mormon Church and head of the Mormon community in preference of any other person to the high office of Governor of the Territory, independent of the political bearings, with which I have nothing to do, was a measure dictated alike by justice and sound policy. Intimately connected with them from their exodus from Illinois, this man has been indeed their Moses, leading them through the wilderness to a remote and unknown land, where they have since set up their tabernacle, and where they are now building their temple. Resolute in danger, firm and sagacious in council, prompt and energetic in emergency, and enthusiastically devoted to the honor and interests of his people, he had won their unlimited confidence, esteem, and veneration, and held an unrivaled place in their hearts." * * *

* * * "Intimately acquainted with their character, capabilities, wants, and weaknesses, identified now with their prosperity, as he had formerly shared to the full in their adversity and sorrow, honored, trusted, the whole wealth of the community placed in his hands for the advancement both of the spiritual and temporal interests of the infant settlement, he was surely, of all others, the man best fitted to preside, under the auspices of the General Government, over a colony of which he may justly be said to have been the founder. No other man could have so entirely secured the confidence of the people; and this selection by the Executive of the man of their choice, besides being highly gratifying to them, is recognized as an assurance that they shall hereafter receive at the hands of the General Government that justice and consideration to which they are entitled." * * * "As to the imputations that have been made against the personal character of the Governor, I feel confident they are without foundation." * * * "Certain it is that the most entire confidence is felt in his integrity, personal, official and pecuniary, on the part of those to whom a long and intimate association, and in the most trying emergencies, has afforded every possible opportunity of forming a just and accurate judgment of his true character."

GOVERNOR YOUNG'S SUCCESSOR.

Governor Young was succeeded by the appointment, in 1857, of Alfred Cumming. Early in the present session of Congress a very serious charge was made by the gentleman from New York [Mr. FERNANDO WOOD] against the people, charging them with rebellion, which I replied to at the time. He said this "rebellion commenced early in 1857. The immediate cause was the exercise of Federal authority and the appointment of a territorial Governor." The truth is, so far from there having been any opposition by Governor Young to the exercise of Federal authority by his successor, Governor Cumming, that it is a notable fact that Governor Young sent out a party to escort the new Governor into the city, and furnished Governor Cumming with fresh animals, and the party conducted the new Governor into Great Salt Lake City; and when he arrived he was greeted and made welcome by Governor Young as his rightful successor in office. It is due to Governor Cumming to say that he discharged the duties of his office to the entire satisfaction of the people. From the elaborate work of Captain Burton, (the English tourist, and author of that celebrated work *The Lake Regions of Central Africa*,) entitled *The City of the*

Saints, page 215, I quote the following relative to the *entrée* of Governor Cumming :

"He had been told before entering that his life was in danger. He was not, however, a man to be deterred from a settled purpose, and experiment showed that so far from being molested he was received with a salute and all the honors."

This information was obtained from Governor Cumming, when the author was in Great Salt Lake City, in 1860.

EFFORTS OF THE PEOPLE TO BE ADMITTED INTO THE UNION. EXTRACTS FROM STANBURY'S REPORT AND LECTURE OF COL. KANE.

I propose now, sir, in conclusion, to review, in a brief manner, the repeated efforts made by the people of Utah to be admitted into the Union.

As preliminary to this, I extract from the well-considered report of Captain Stansbury, to which reference has already been made, as containing the views of this able officer, formed after an intimate acquaintance of more than a year with the people. On p. 144 he says :

"Apprehensions have been entertained as to the expediency of giving any countenance to the founding in our midst of an association of men so peculiar in views and so distinct in principles, manners, and customs from the rest of the American people. Serious doubts, too, have been expressed in regard to the policy of appointing Mormons to offices of high trust in the administration of the affairs of the newly created Territory; and direct charges have been widely published, seriously affecting the patriotism and reputation of the Mormon leaders, as well as the loyal feelings of the people toward the General Government.

Such doubts and apprehensions are, in my judgment, totally groundless; and the charges I believe to be either based upon prejudice or to have grown out of a want of accurate information. A residence of a year in the midst of the Mormon community, during the greater part of which period I was in constant intercourse with both rulers and people, afford much opportunity for ascertaining the real facts of the case."

He also says, on page 133 :

"Nothing could exceed the appearance of prosperity, peaceful harmony, and cheerful content that pervaded the whole community."

And on page 134 he uses this language :

"In their dealings with the crowds of emigrants that passed through their city, the Mormons were ever fair and upright, taking no advantage of the necessitous condition of many if not most of them. They sold them such provisions as they could spare at moderate prices, and such as they themselves paid in their dealings with each other. In the whole of our intercourse with them, which lasted rather more than a year, I cannot refer to a single instance of fraud or extortion to which any of the party was subjected, and I strongly incline to the opinion that the charges that have been preferred against them in this respect arose either from interested misrepresentation or erroneous information. I certainly never experienced anything like it in my own case, nor did I witness or hear of any instance of it in the case of others while I resided among them." * * * "In short, these people presented the appearance of a quiet, orderly, and well-organized society, as much so as one would meet with in any city of the Union, having the rights of personal property as well defined and as religiously respected as with ourselves, nothing being further from their faith than the spirit of communism, which has been most erroneously supposed to prevail among them."

These are the views of a highly educated and impartial Army officer, as set forth in his report to the Government. I cannot but regard them as possessing more truth and merit and entitled to far more weight, than the partisan statements of disappointed demagogues.

In this connection I cannot refrain from quoting the concluding part of the eloquent lecture of Colonel Thomas L. Kane, delivered before the Historical Society of Pennsylvania, at Philadelphia. He has spent much time with the people, knows them well, and sustains no relation to them, except that formed by the tie of a common humanity. A brother to the late illustrious Dr. Kane, his character is well known to some of the members of this House :

"I have gone over the work I assigned myself when I accepted your committee's invitation as fully as I could do without trespassing too largely upon your courteous patience. But I should do wrong to conclude my lecture without declaring in succinct and definite terms the opinions I have formed and entertain of the Mormon people. The libels of which they have been made the subject make this a simple act of justice. Perhaps, too, my opinion, even with those who know me as you do, will better answer its end following after the narrative I have given.

"I have spoken to you of a people whose industry had made them rich, and gathered around them all the comforts and not a few of the luxuries of refined life; expelled by lawless force into the wilderness; seeking an untried home far away from the scenes which their previous life had endeared to them; moving onward, destitute, hunger-sickened, and sinking with disease; bearing along with them their wives and children, the aged, and the poor, and the decrepid; renewing daily on the march the offices of devotion, the ties of family and friendship and charity; sharing necessities and braving dangers together, cheerful in the midst of want and trial, and persevering until they triumphed. I have told, or tried to tell you, of men who, when menaced by famine, and in the midst of pestilence, with every energy taxed by the urgency of the hour, were building roads, and bridges, laying out villages, and planting corn-fields, for the stranger who might come after them, their kinsman only by common humanity and peradventure a common suffering; of men who have renewed their prosperity in the homes they have founded in the desert, and who, in their new built city, walled round by mountains like a fortress, are extending pious hospitalities to the destitute emigrants from our frontier lines; of men who, far removed from the restraints of law, obeyed it from choice, or found in the recesses of their religion something not inconsistent with human laws, but far more controlling; and who are now soliciting from the Government of the United States, not indemnity, for the appeal would be hopeless, and they know it; not protection, for they now have no need of it, but that identity of political institutions and that community of laws with the rest of us which was confessedly their birth-right when they were driven beyond our borders.

"I said I would give you the opinion I formed of the Mormons: you may deduce it for yourselves from these facts. But I will add that I have not heard a single charge against them as a community, against their habitual purity of life, their integrity of dealing, their toleration of religious differences of opinion, their regard for the laws, or their devotion to the constitutional Government under which we live, that I do not from my own observation, or the testimony of others, know to be unfounded."

Col. Kane, as does Capt. Stansbury, indorses the loyalty of the people and their devotion to our constitutional Government. This, sir, is proven by their desire and efforts to be admitted as a State. Never were they more anxious than now, in the present unfortunate condition of the country. They want to constitute one link in the chain, stretching from the Atlantic west to the Pacific, binding together in one glorious sisterhood a cordon of States across the American continent. To this end they desired to be admitted in 1850; but on the 9th day of May of that year you made California a State, with no larger resident population than Utah, and organized Utah into a territorial government. Early in 1856 a convention prepared a constitution which was ratified by the people, and special delegates were sent to Washington for the purpose of presenting it. It was in all respects republican, and I think no one was sufficiently fastidious to raise the slightest objection to the constitution. Still the application did not meet with favor, and no formal action was had in Congress. However, Utah submitted to the disappointment with as much grace as was possible for a disappointed child when forbidden the hospitalities of the family board. She returned to the scanty fare of a territorial government, her patriotism and loyalty undiminished.

After enduring her semi-colonial condition six years more, the people of Utah called another convention, and prepared another constitution. Again were the people called upon to vote, and again was the constitution unanimously adopted. This, like the other, was republican, and

in all respects unobjectionable. It was presented to Congress by my predecessor, Hon. John M. Bernhisel, but was never brought to a vote in the House.

ENABLING ACT FOR STATE GOVERNMENT.

Following in the wake of Nebraska, Colorado and Nevada, I have had the honor of presenting a bill for an enabling act to authorize the people to form a State government. This, I trust, will be more fortunate.

Mr. Chairman, in forming your new western States, is it proposed to jump over Utah, and take in Nevada, that is but an offshoot of Utah once belonged to her western boundary, has had a territorial existence of only about three years, and has far less population than Utah? Is it proposed to take in Nebraska, lying immediately west of the Missouri river, Colorado west of it, and then take in Nevada, and leave out the most valuable and important link in your chain of States to the Pacific? Why, sir, these Territories are infants in age and population when compared with Utah. Fourteen years has Utah had a territorial existence, and at no period since her organization has she not had a larger resident population than either Nebraska or Colorado.

In behalf of near one hundred thousand people I protest against this unjust discrimination. In behalf of those who first explored and settled the country west of the Missouri river seventeen years ago, who made the road across the continent, opened up the way to California, discovered the rich placers of gold on the shores of the Pacific, and gave you to know and understand that there was a great and mighty West, rich in mineral resources, way beyond the Rocky mountains—I ask for justice and equality. In behalf of those who with lives in their hands in an Indian country have reclaimed your deserts, prepared the way for your great postal interoceanic communication, your telegraph and Pacific railroad, who have contributed more to the settlement of California by reason of the facilities and position of their settlements than all the ships of the Pacific—I ask for justice and equality. In behalf of those who follow with intense interest and anxiety your flag, whose whole heart beats in unison with the Constitution and Government, and who, if admitted, will be represented in Congress by those who will vie with the foremost in sustaining your nationality—I ask that you do not turn them coldly away, and for the third time reject their petition and prayer. We come to you in friendship and love. We offer you our devotion, our industry, our enterprise, our wealth, our humble counsels in the affairs of the nation in this the darkest hour of our country's history. We present to you for a State your deserts reclaimed and fertilized by persevering industry and the sweat of uncomplaining toil. We offer you one hundred thousand people who can truthfully boast that in all their settlements is not to be found a drinking saloon, a billiard table, or a bowling alley, and who with pride point you to their cities, their churches, their school-houses, their manufactories, farms, and possessions as evidences of their achievements and the results of their industry. Will you accept the offering? The Constitution invests you with the power; exercise it charitably, deal justly, and decide wisely.

STOCKTON, CALIF.

PAT. JAN. 21, 1908

