

TERRITORIAL CONVENTION.

FIRST DAY.

MONDAY, 2 P. M.

PRESIDENT BARNUM, on being conducted to the chair, addressed the convention as follows:

Gentlemen of this convention, For the confidence and the honor which you, by your vote, have so unexpectedly expressed in me, I return you my sincere thanks. I could certainly have wished that this choice had fallen on some other member of the convention, some one more intimately acquainted with a large majority of the members of the convention. In conducting the business of the convention, whatever shall be the term of its session, and whatever may be the work performed and the result of our labors, it will be my endeavor, while occupying this chair, to discharge the duties devolving upon me faithfully, honestly and impartially to every member of the convention; and very much will depend upon yourselves as to the dispatch, order and efficiency with which the work of this convention shall be consummated.

Again I return you my sincere thanks, and hope that if, as a result of the labors of this convention, a Constitution shall be framed and submitted to the people, that in every part and portion of it, in the principles involved in it as well as in the language in which it shall be expressed, it shall be such a one as will challenge the approval, not only of the Congress of the United States, if presented to them, but of every portion of the people of these United States. (Applause.)

The following officers were elected for the permanent organization—

Secretary—R. L. Campbell.
Assistant Secretary—L. John Nuttall.
Second Assistant Secretary—John Henry Smith.
Doorkeepers—John D. T. McAllister and Milando Pratt.
Messengers—Robert S. Campbell and Brigham Carrington.
Reporters—David W. Evans and John Q. Cannon.
Printer—Angus M. Cannon.
Fireman—Rodney Badger.

Mr. Fitch offered a resolution that a committee be appointed by the president to wait upon a clergyman of each religious denomination in the city, and request them to attend the convention each day, in turn, and offer prayer at the opening of the proceedings. The resolution was adopted, and Mr. Fitch, of Salt Lake county, Mr. Jesse N. Smith, of Iron county, and Mr. Thurber, of Utah county, were appointed the committee.

Several resolutions were adopted with regard to the order of business, and rules governing the convention.

Mr. Fitch offered the following, which was adopted:

Resolved—That the sergeant-at-arms be instructed to procure a United States flag, and unfurl the same on the flag-staff in front of this hall, during the sittings of the convention.

Mr. Miner, of Salt Lake county, offered a resolution, to be laid on the table to come up in its order, that the constitution of Illinois, adopted in 1870, be taken as a basis by this convention in framing a constitution.

Mr. Fitch, of Salt Lake county, offered a resolution, that the constitution of Nevada be the basis for the constitution to be framed, to be taken up each day in committee of the whole, section by section, for consideration. He spoke in support of the resolution, and considered the constitution of Nevada more applicable to Utah than that of Illinois.

Mr. Farr, of Weber county, moved that the constitution of Deseret, framed in 1862, be taken as a basis. He said that constitution had been acknowledged by the congressional committee to whom it had been submitted, as one of the best ever framed.

Mr. Snow, of Salt Lake county, would rather see a constitution framed that would embody the best of all the existing State constitutions, than to take any single constitution as a basis.

Mr. Miner presented his resolution because the constitution of Illinois was one of the last framed, and one of the best he had read.

Judge Hayden sustained Mr. Fitch's resolution.

Mr. J. W. Young, of Washington county, offered a resolution that a hundred and twenty-five copies of the constitution of Deseret, of 1862, be printed for the use of the members of the convention. Tabled to come up in order.

Mr. Farr's resolution was read and he spoke in favor of it.

Col. Buel of Salt Lake county, thought the constitution just referred to was not the one which should be taken up by this convention. He believed it would be unwise to do so. Take Utah as she is, not as she was ten years ago, and frame such a constitution as is needed to-day. He agreed with Mr. Snow that no constitution should be taken as a basis.

Mr. J. W. Young thought there was no need for much argument on the matter. He understood that the proposition was simply to take some constitution as a basis, and save the labor of a committee drafting one.

Mr. Milner, of Utah county, offered as an amendment, that no constitution be taken as the basis.

Colonel Akers, of Salt Lake county, objected to any further amendments until the original resolution was acted upon.

Mr. Fitch had not seen the constitution of Deseret, but had no doubt it was a good one; yet it had the odor of defeat about it.

Mr. Johnson, of Salt Lake county, thought all these conflicting resolutions ought to be referred to a committee, to expedite business.

Mr. Jennings, of Salt Lake county, moved, as a substitute, that a committee of seven be appointed to examine the different constitutions and report which one should be taken as a basis.

Colonel Buel inquired if the gentleman could inform the convention at what probable period of time that committee would be able to get through all the constitutions and report to the convention.

Major S. M. Blair, of Iron county, opposed Mr. Jennings' amendment.

The amendment was lost.

Mr. Farr's amendment was put and lost.

Mr. Fitch's resolution was then put and carried.

Mr. J. W. Young's motion for the printing of 125 copies of the constitution of Deseret, was amended, the word "Nevada" being substituted for "Deseret," and was adopted as amended.

Mr. Fitch offered a resolution for the appointment of thirteen standing committees; adopted.

A communication from the county clerk of Salt Lake county was received, announcing that Gen. P. Edward Connor had declined the election as delegate to the convention, on the ground that he had been and is a resident of the State of California, and consequently is not eligible to serve; and tendering his thanks for the confidence reposed in him, as evinced by his election.

Judge Hayden,

One of the delegates from Salt Lake County, said,

"I move that this convention adjourn *sine die*. I do not make this motion with any intention of throwing a fire brand or disturbing, but for the purpose of placing myself right with those who sympathize with me. I will take this occasion to say I was elected a delegate to this convention without my approbation or consent, and many knowing that I was opposed to the organization of a State government. I will also state that I here return my sincere thanks to those ladies and gentlemen who honored me with their suffrages for the position which I now occupy. I am opposed to a State government and in favor of adjournment for these reasons:

1st—The people of the Territory of Utah have not, through the usual American means of manifesting their wishes—viz, by public meetings and resolutions, petitions, &c., declared in favor of a State government.

2d—The population of Utah does not come up to the standard by the late law of the United States, and asking her admission in direct opposition to a solemn expression of Congress, would be a direct insult to the law-making power, and injurious to favorable federal legislation in the future.

3d—The sad experience of other States created without sufficient population, has taught us that it is wiser to remain a carefully cared-for ward of the government, than impose upon ourselves an onerous burden of taxation, which would cripple our energies and retard the development of the leading resources of the country.

4th—This convention is called without the authority of any law, either Territorial or Federal, and its action has no other merit than that which pertains to any meeting of citizens called together to discuss public measures.

He said he had thus briefly given his reasons why he was opposed to a State government and in favor of an adjournment *sine die*, and would not attempt further to discuss the question.

To the motion and remarks of Mr. Hayden, the following reply was made by

Col. Akers.

I can say with my colleague from Salt Lake county that I was unexpectedly elected to this convention, but I believe I can not go any further in expressing sympathy with the resolution which he has just offered. I have never had an opportunity before of giving public expression to my views on the formation of a State government for this Territory. It is true, I have talked in a private way to various gentlemen at different times, and have always taken occasion to express my most hearty concurrence in the object for which we are assembled here to-day, as a Convention. I do not propose to make a lengthy speech, and I make this statement now that I may not be misunderstood; but I do think a resolution of this character, offered with written reasons, ought to be met with some counter statements of reasons on the other side of the question. I think, if any people have ever needed a State government, since the first formation of the Federal Union, the people of the Territory of Utah need one now. (Applause.) In the first place it would give us a fixed and stable government. A Territorial establishment is, in its nature, a temporary and transient affair; and there are many defects in the Territorial system of this country, which perhaps might be cured, but which bear very heavily on a people when they have attained a population sufficient to form a government for themselves. One of the great objects which I have had before my mind in favoring the formation of a State government for Utah is that it would give us, at least, a harmonized Judiciary. And here allow me to say that I do not undertake to hold the balance between the Federal and Territorial authorities, nor do I undertake to say which are right and which are wrong. I only mention the great fact, which we all know, that the time is occupied in warring between these opposing factions, and that the law is absolutely falling into contempt, simply because of the disagreements between these two great branches which are appointed to administer the laws of the country. I say the formation of a State government would give us harmony in the Judiciary; and law is such in its very nature, that it must either stand altogether or it will perish. You will all recall at once the nature of the Code of Draco, which was so cruel that it undertook to punish one hundred and fifty different crimes with the death penalty; and the administrators of the law, seeing that the penalty was often incommensurate with the crime fell into the habit of permitting the law to bend to this unforeseen exigency, and finally, persons inclined to the commission of crime came to calculate upon the law bending to their case, and then to go beyond that in their calculations, and finally the law itself was trampled under foot, simply because it misgave in its execution. Where we have in the Judiciary itself proceedings which bring the law into contempt, I say that it is one of the severest blows that has ever been given to the administration of law in this country, and that we need a State government in order that we may have an efficient administration of the laws.

But we need a State government for another reason. I do not sympathize with this idea that we should remain the ward of the Federal government, and be fed at the Federal crib, and sit at the Federal board and partake of its bounty. I believe, Mr. President and gentlemen of the Convention, that the formation of a State government would put new life and energy into every channel of industry in this Territory. We do not feel that we are half men until invested with the right of self-government, and a Territory does not have that right under the American system, especially this Territory, as the laws are administered, does not possess that right. (Applause.) Let us have a State government, let every man be made to feel that this is his government, that he has an interest in it, and you will see altogether a different kind of life and energy manifested by the people in every department of industry. Why has this great nation prospered as it has during the last three-quarters of a century, and I do not intend to be lengthy on that point? I am willing to concede that the richness of our soil and that our vast resources have done very much to make this nation what it is. But still they do not account for the great growth of the country. Old as the expression is, hackneyed as it has become, it is still

true that there is no example in the history of the world of the growth of a people that bears any proportion to, or that can be brought into comparison with, the growth and development of the great Republic of the United States, and why is it so? I say the richness of our soil, which is perhaps unexampled, and the wealth of our mineral resources, to which I will not undertake to set bounds, have done much to produce this growth; but after all they do not account fully for it. It lies in the fact that in this country every man is a free man. Make a State government and let every citizen of this Territory feel that he has an interest in it—that he is a free man, and we shall witness a growth and development of the energies of Utah Territory such as has been witnessed in the growth of this great nation. Certainly we have a sufficient population, and during the last decade not a new State has come into this Union with as large a population as Utah Territory has to-day. And the law of Congress to which my colleague referred does not bear on the question that we are considering, and will not bear on it until March 1873. If I am not mistaken he refers to the New Apportionment bill, which does not go into force until the year 1873, so that there is no obstacle in the way of forming a State government for Utah; and if it were not that I should occupy too much of the time of the Convention, I should like, just here, to make an observation in reference to what is the foundation of all other objections that are offered to the formation of a State government here at this time. (Cries of "go on.") It is, Mr. President, that by the formation of a State we are told the reins of government would at once pass in the hands of the Mormon people, that we would have, in short, a Mormon State, and that there is no way of meeting that difficulty other than by keeping the Territory in a Territorial condition.

Now I believe that there is a solution of that whole question that will be entirely satisfactory on all hands, if we would only address ourselves earnestly and honestly to the work of forming a Constitution, to which we might all yield a hearty and unanimous concurrence. You all remember that the State of Missouri came into this Union on what was then called a fundamental condition, a compromise offered by Mr. Clay. It was not admitted into the Union on the compromise of 36° 30' as it is usually called, the compromise measure of 1820; but it was admitted into the Union in the year 1821 on a proposition presented in the Congress of the United States by Mr. Clay, called a fundamental condition, which stipulated that the State of Missouri should not be considered as invested with the rights and dignities of Statehood until her first Legislature, by their solemn public act, had declared that no part of her Constitution should be so construed as to abridge the rights of any citizen of the United States. Whereupon, when the President of the United States made a proclamation to that effect, the State of Missouri was to be considered a State of the Union, and not until October 1821 was she fully admitted in the Union.

Now, why can not the same be done in reference to Utah? If there are institutions here on which Congress may propose to impose a limit, why may they not admit the State on some such fundamental condition, and await the action of the first Legislature of the State of Utah? For my part I am not afraid to trust the Congress of the United States to pass upon such an instrument as we may submit to them as the fundamental law for the State. I must therefore oppose the resolution of my colleague from Salt Lake.

Col. Buel,

Another of the delegates from Salt Lake County, made the following remarks on the same subject:

Unlike my colleague from Salt Lake County, I was not unexpectedly elected to this convention, for the moment I saw my name on the ticket I knew I would be elected sure. (Laughter.) However, my name was placed there without my knowledge or consent. But Mr. President I am in favor of the adoption of a State government for Utah, for the reason, sir, that I believe it will give us peace at home and character abroad. (Applause.)

Mr. Fitch stated that before the motion to adjourn *sine die* was put to the Convention he desired to give his views at some length, in reference to the formation of a State government for Utah,