

Correspondence.

LETTER III.

It is therefore proper to say that while the case at bar is called "The People versus Brigham Young," its other and real title is "FEDERAL AUTHORITY versus POLYGAMIC THEOCRACY."—Opinion of Chief Justice J. B. McKean.

Mr. Editor: Dear Sir:—The principles of universal liberty, inalienable rights, inherent in every man born into the world, to which I referred in my last, are cosmopolitan in their nature, the rightful inheritance of every man, and are applicable only to a regenerated political world. These are the principles that the Latter-day Saints believe in, and are in fact the leading prominent features of the kingdom of God. For when God's "will, shall be done on the earth, as it is done in heaven," the shackles will be knocked from every son and daughter of Adam; there will be proclaimed a universal jubilee, and all mankind will be free, every wrong will be suppressed, and every right maintained; the living, glorious, eternal principles of "doing unto all men, as we would they should do unto us," will prevail. Then social, political, religious and judicial tyranny, shall hide its hoary head and be buried in everlasting oblivion; then those heaven-born principles announced at the birth of Jesus, "Peace on earth and good will to man," shall be proclaimed to every nation, heralded to the world, thundered from every mountain top, reverberated from hill to hill, and echoed in every vale; they will be whispered in every household and be wafted on every breeze. Then all hearts shall be made glad, and the voice of mourning and sorrow be banished from the earth;

"And every man in every place,
Shall meet a brother and a friend,"

and as Parley P. Pratt has it:

"Come, ye sons of doubt and wonder,
Indian, Moslem, Greek, or Jew;
All your shackles burst asunder,
Freedom's banner waves for you."

This is what the Latter-day Saints are trying to inaugurate. Judge McKean says it is a system that is on trial; he does not know it, but the above is the system; what he is pleased to call "Polygamic Theocracy," against which he says Federal Authority is arrayed, or in other words, the United States versus popular sovereignty, the inalienable rights of man, universal freedom, the reign of peace, the kingdom of God.

The United States government do not profess this, they have entered into no such compact. The Republic of America is simply the act of the people of America. The Constitution is a solemn compact, entered into by the people, which composed the then colonies of America; by which the several peoples and States that should be organized under it, agreed to abide, among one another. They were not legislating for the world, nor forming compacts for any other people than their own; they did not even prohibit slavery; their compact was simply with the Caucasian race, then within, and that should hereinafter endorse the compact in the United States.

It may be asked why the framers of the constitution did not carry out the views enunciated by the declarers of independence, in regard to the inalienable rights of man; and allowed in article IV, sec. 2, of the constitution, slavery to be continued and perpetuated? Simply because they had not the moral courage, or power, to enforce principles that to their understanding and mental vision were "self evident truths." Were I their apologist, I might say, that just emerging from despotism, composed of different nationalities and a diversity of interests, finding it impossible to agree on every principle; they thought it better, as a compromise, to sacrifice this one and retain so many that were good, than to lose the whole, break up in confusion and lose their national unity. But this sacrifice has cost the nation dearly, for, as the tree in which is deposited the small insect, continues to grow and flourish and spread forth its branches and foliage, while a deadly canker is penetrating the trunk and threatening its destruction, so slavery for nearly a century, has been a subject of bitterness, acrimony, heart burning and hatred; annually disturbing the councils of the nation, until it culminated in one of the most bloody, revengeful, fratricidal wars recorded in history; thus exhibiting a terrible retribution, for the violation of natural law and inalienable right.

It may be asked, if this instrument was imperfect, why do you sustain it? Simply that, with this one fault, it was the best instrument in existence, and it was all and more than the nation has ever lived up to. Why did Joseph Smith say it was given by inspiration of God, if it was imperfect? Does He sanction imperfect things? Yes; when a whole people want them. He allowed ancient Israel to have a king; but at the same time told them he would be a curse. (See 1 Sam., VIII chap.) He placed the children of Israel under the law because of transgression; if they could have endured the gospel they might have had it, which was more perfect.

It is but fair to say then, that the liberty

they professed was only for themselves; for the European communities who might come here, the Caucasian race; not the negro, not the Indians, perhaps not the Asiatic or Chinese, but to the white; everything else professed is a falsehood, a sham. It does not, or did not profess to give liberty to them; only to the white man. Fourth of July orators sometimes in their oratorical flights, talk of extending their principles to the world, and proclaiming universal liberty and the inalienable rights of man, but this is only a momentary gush of enthusiasm, and dies out, as do the clang of bells, the sound of music, and hurrahs of the populace. The above is the higher law so much talked of and which men seem so little to understand.

If the United States government therefore abide by the constitution of the United States, that is all that can be required of them. By these however they are in honor bound, just as much as men are in honor bound to meet their financial arrangements or other promises to pay; just as much as the Free Masons, Odd Fellows, Druids, or any other organizations are bound to abide by their covenants.

It is our rights therefore, as American citizens, that we have to examine. The constitution may very properly be said to be the political Bible or law of the American nation. It contains the doctrines, organizations, rights, privileges, powers, and immunities both of the citizen and the nation; as the Bible contains the doctrines, organizations, rights, privileges and laws of the Christian and church. It is a political text book or book of reference and is the end of all questions by all parties.

The right of citizenship has for ages been considered a great boon among the nations. In many instances it conferred great and special privileges, as in Greece, Rome, France, England and other nations. The right of suffrage was one prominent among these privileges. In most European nations, and in England, to-day, many of those privileges are yet extant. In former days Paul of Tarsus being in danger from the rulings of a corrupt partisan court, availed himself of his Roman citizenship; and said, "I appeal unto Cæsar." To this appeal even those magnates had to listen, and conceding his rights, said, "Unto Cæsar shalt thou go." The United States are not less zealous of individual citizens, rights, than were the Romans; and stand ready to employ a consul or ambassador, a ship, fleet, an army, or the nation in their defense. Let us hope that while they are just in maintaining the rights of one individual, which a decent respect for their political status requires, that the nation will not be less just or magnanimous, when a hundred thousand American citizens appeal to them for redress.

In the agreement or compact of the constitution; which is really, as declared, "A more perfect union," formed by the people of the United States," the following powers are ceded, by the people, to the government—

"Art. I. Sec. VIII. To lay and collect taxes, duties, imports and excise—to pay the debts and provide for the common defense and general welfare of the United States, to borrow money; to regulate commerce with foreign nations, and among the several States, and with the Indian tribes; to establish a uniform rule of naturalization, and laws of bankruptcy; to coin money and fix the standard of weights and measures; punishing counterfeiting United States coin, and securities to establish post offices and roads; promote science and art; to constitute tribunals, inferior to the supreme court; to punish piracies and felonies; to declare war, grant letters of marque and reprisals; to raise and support armies, to provide and maintain a navy; make laws to govern the land and naval forces; to provide for calling forth the militia; to execute the laws of the Union, suppress insurrections and repel invasions; to provide for organizing, arming and disciplining the militia; and for governing such part of them as may be employed in the service of the United States; reserving to the States respectively the appointment of the officers, and the authority of training the militia. To exercise exclusive legislation over the district, now known as the District of Columbia, and such places as shall be purchased for the erection of forts, magazines, arsenals, dockyards and other needful buildings; and to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States; or in any department or office thereof."

Art. I. Sec. I, says, "All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives."

"Sec. III. The senate shall have the sole power to try all impeachments."

"Art. II. The executive power shall be vested in a President, who shall be commander-in-chief of the army and navy of the United States; and of the militia of the several States, when in the service of the United States. He shall have power to grant reprieves and pardons, for offences against the United States; except impeachment; he shall have power, by and with the advice and consent of the senate, to make treaties; appoint ambassadors, other public ministers and consuls; judges of the supreme courts, and all other officers of the

United States whose appointments are not herein otherwise provided for, and which shall be established by law; to fill all vacancies that may happen during the recess of the senate. He may on extraordinary occasions convene both or either house of congress; receive ambassadors and other public ministers; take care that the laws be faithfully executed; and shall commission all the officers of the United States."

"Art. III. The judicial power shall be vested in one supreme court, and such inferior courts as the congress may from time to time ordain and establish. The judicial power shall extend to all cases in law and equity arising under this constitution, and the laws of the United States and treaties made, or which shall be made under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States, between citizens of the same State claiming lands under grants of different States; and between a State, or the citizens thereof, and foreign States, citizens or subjects."

"Sec. III. The Congress shall have power to declare the punishment of treason."

"Art. IV. Sec. III. 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."

"Sec. IV. The United States shall guarantee to every State in this Union a republican form of government; and shall protect each of them against invasion."

All power professed by the United States government is contained in the above; which in reality constitutes the powers and authority of the United States government. Its powers may be described as: legislative, judicial and executive; and all powers ceded to these three separate and distinct authorities belong to them, either separately or conjoined, as may be prescribed; all other powers not enumerated or specified in the above belong to the people or to the States. If there is any encroachment upon the above powers by the people, it is an injustice and a direct infringement upon the rights guaranteed by the Constitution; and on the other hand, if any of the above authorities, either the executive, legislative or judicial, exceed their powers and privileges, and encroach upon the people's rights, they commit an outrage upon the people and violate not only good faith with the people but the sacred oaths they have taken to maintain inviolate the Constitution of the United States; for, as we said before, "All delegated power is trust, and all assumed power is oppression." Presidents, governors, legislatures, judges, etc., etc., have no more right to interfere with the people's rights than the people have to interfere with their official duties. As all governments heretofore of every kind, among all nations, have tended towards encroachment and oppression, and as the then infantile nation had just emerged from a state of despotism and a great number of flagrant wrongs enumerated in the declaration of independence, they were very careful, in this instrument, to protect the people in all legitimate personal, civil, religious and social rights; and to place them in a position whereby they nor their posterity should ever be encroached upon in a similar manner.

Laboring under accumulated acts of tyranny; groaning under oppressions and wrong; smarting under the taunts of imported minions; the American people presented the sublime spectacle of a whole continent determined to be free! They issued their declaration of independence; wrenched the manacles from their limbs, and threw them as a gauge, at the feet of their forgers; entered into articles of confederation, framed a constitution, erected their liberty poles, flung to the breeze the Stars and Stripes—Stars, a light to themselves and friends; Stripes, for the enemies of freedom and the rights of man. That king of birds the eagle which dares unapproachable heights, and on its powerful pinions soars aloft in the wide unfathomed upper blue, and gazes with unbleached eye on the meridian sun, was selected as their emblem. They resurrected the twin goddesses of justice and liberty; and chimed a bell that with sonorous, solemn, yet with joyous, jubilant tones, which, as was written on itself, "Proclaimed liberty throughout the land;" the fire of freedom burned in every patriotic heart; and in that instrument, they were determined to perpetuate to their posterity and succeeding generations, that freedom and liberty they had wrenched from the hands of tyranny.

The next inquiry is: how is this government thus organized by the people to be perpetuated? and how are its officers to be chosen, and by whom? this is also provided for in the constitution.

Sec. I. Provides that all legislative powers shall be vested in a congress of the United States, which shall consist of a Senate and House of Representatives.

Sec. II. Provides that the House of Representatives shall be composed of members chosen every second year, by the people, in the several States.

Sec. III. Provides that the "Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof." Thus the House of Representatives are chosen direct by the people and the Senate by the Legislature of each particular

State, which Legislatures are chosen by the people. The whole legislative department, if not strictly democratic, is a representative republican organization, and originates with the people, and was designed to be perpetuated by them as a living perpetual inheritance, who according to their numbers report on their representation, and according also to another broad and acknowledged principle, based on property qualifications, of taxation and representation; hence the two-fifths rule of the negro population conceded to the South was based on this principle, being simply proprietary; goods and chattels, not men.

The Executive or President is also chosen by the people, not indeed directly, but through presidential electors, which electors are chosen by the people for that purpose, hence the President receives his power from the vox populi for four years.

The judicial power of the United States differs in the mode of its organization from that of the legislative and administrative; for although the forementioned two organisms derive their power directly from the people, and are strictly popular and representative, the judges are appointed by the President, by and with the consent of the Senate, and hold their offices during good behavior. Thus the whole government, except the United States judiciary, derive their authority by, and with, the consent of the governed. The appointing power however, being popular representatives themselves, it is only one remove therefrom; at any rate, this is a provision of the constitution which is as binding upon all as any other. In the States, judges are generally elected by the people.

From the above we gather that the whole foundation and superstructure of American ethics or jurisprudence is based upon the popular will; that its executive, legislative and judicial powers originate with the people; and that the people having granted to the men of their choice, certain powers, agencies and authorities, to act for and in their behalf, limiting all of them by the provisions of the constitution, which all of them take an oath to support, they reserve to themselves, to their State or to "the people," all the remainder.

Here we may pause and enquire, if indeed the above is a correct exposition of our rights and privileges as American citizens, how is it that such infamies can transpire as have lately been exhibited in our courts? I may be here met with a statement that we are only a Territory; true, we are only a Territory, but we are American citizens, and have never abjured our citizenship nor relinquished our constitutional guarantees. The Territorial question, I propose to examine hereafter, but would now remark, if the above be true, and the axiom of the declarers of independence be correct, that the governments "derive their just powers from the consent of the governed," what becomes of our federal officers, for not one of our citizens invited them here, or had any vote in their coming, nor was their consent asked. If all just powers are derived from the consent of the governed, then the powers exercised by them must be unjust. "Do men gather grapes from thorns, or figs from thistles?" Who are the instigators of our present difficulties? Every school-boy knows, who have been seeking to introduce anarchy, sedition and strife? Let our federal officers answer; are they not here simply as plotters of mischief, as conspirators against the peace of the people? Professing to administer law; have they not been the first to break it? The facts are the people, one hundred thousand American citizens, living in the Territory of Utah, with the full rights of freemen, and the protecting guarantees of "a written constitution," in fact the Territorial government finds in the persons of federal officers "another government," not of the people, and in violation of constitutional guarantees and authority; claiming to come from the United States, imperium in imperio, whose policy and practices are in grave particulars at variance with its own, and asks by what authority it presumes to set itself against the legitimate constituted authority of the people of the Territory or State; by what authority it ignores its laws; by what authority it overrides and tears down the safeguards of society, and fosters in our midst drunkenness, gambling and whoredoms, those infamous adjuncts and institutions of professed civilization; by what authority it repudiates its officers, by what authority it interferes with the religion of the people, with their social, religious, political and moral rights.

And by what authority we are inflicted with such diatribes and pronouncements as the following:

"It is therefore proper to say that while the case at bar is called, *The People versus Brigham Young, ITS OTHER and REAL TITLE IS FEDERAL AUTHORITY versus POLYGAMIC THEOCRACY.*"

Respectfully, &c.,
JOHN TAYLOR.

ERRATUM.—In the letter of correspondence by a "Native-born American Citizen," in the daily NEWS of Oct. 26, 22nd line from the end, for "case thus found," read, "code thus formed."

A BLACK MARK.—The "mark" that Judge McKean is making in Utah in persecuting the Mormons through courts and juries.—*Omaha Herald.*

In this city, October 27th, ELNATHAN EL-DREDGE, Sen. of lung disease, aged 60 years. Born in the town of Harwich, County of Barnstable, Mass.

Funeral will take place Oct. 29th, from his late residence, 16th Ward, at 10 a. m. Friends and acquaintances are respectfully invited.

In this city, Oct. 29th, of cancer, ANNIE LORETTA, daughter of W. H. and Annie Fowler, aged 1 year, 6 months and 19 days. Funeral service at residence, 12th Ward, Oct. 31st, at 10 a. m. Friends are respectfully invited to attend.

At Richville, Morgan County, Oct. 23, EMMA, daughter of William and Phebe Durrant. Deceased was born at Deanshanger, Northamptonshire, England, November 26th, 1853.

Mill Star please copy.

Notice.—The Members of the 23rd Quorum of Seventies are requested to report themselves immediately to Charles Lambert, President 7th Ward, Salt Lake City, d-s-w lea