the parent or guardian. The Territory is old in years, and sufficient, according to precedent, in population, and yet the sovereign voice of a generous government, from the beginning, has denied, and continues to deny, the requests of a majority of the people for advancement to Statehood. No probationary period of Territorial existence is declared nor any definite number of population is prescribed by law. It is not years or numbers that warrants advancement. There are conditions precedent—other considerations. The Government of the United States is the combined aspirations of men determined to continue free government upon the earth.

It is not well for us to measure the grandeur, greatness and beauty of its mighty stature, and to look at home for the cause of the troubles that confront us? Is it not well to heed the advice of the parent government so often given?

While the state of mind and purposes and perplexed surroundings of so many people of Utah must, in a measure, be felt and reflected by you as their representatives, therefore I affirm that it is well for us to heed the danger signals that Executive expression, Congressional legislation and Supreme Court decisions have given to poor, distracted and obdurate Utah of the past, and our bounden duty to consider the present and threatened legislation before Congress, relating to Utah, all of which I am sure in patriotic hope and wisdom, by the government at Washington and by those charged with the execution of those laws here are intended to correct existing evils in the Territory and which primarily should be corrected by the legislature of Utah rather than by Congress.

AID TO THE FIRST SETTLERS.

Remember the aid given by the Government to the hardy pioneers who settled Utah.

Remember that not one life of those who settled Utah was put in jeopardy in the battles with Mexico, the successful termination of which gave this vast inter-mountain region to the country and to you. Remember that not one life of those who inhabited Utah went out in the battles of the late war, which preserved the life of this Nation. The blood of the people of Utah was not required. That of others secured this land and preserved with it the blessings of Liberty! It is your country, and mine! On the mountains and in the valleys, the Government has given with a sheltering and helping hand, homes for all. Is it too much to ask that all should obey the laws? And is too much to expect that your honorable body, owing its very existence to a law of Congress, and for your official services paid out of the National treasury, should write laws in unison with the laws of the country and to repeal all Territorial statutes that conflict with national laws?

OUR RECIPROCAL DUTY.

Those who engage to say that Congress having undertaken to legislate upon certain subjects, relieves you of any obligations to legislate upon them and like subjects, are mistaken. The argument is specious, and as dangerous as it is fallacious.

The express provisions of the law known as the Edmunds bill, providing for the conduct of elections, etc., announces that the law should continue in force until the Legislature meets the requirements of Congress in passing a proper statute upon that subject. It therefore may not be expected that any law falling short of expressed requirements will permanently restore the exercise of the functions of the Election Board to those named by Territorial statute.

In my message to the Legislature two years since, I said: "We are expected in discharging our duties as legislators, to write such a code of laws as shall, while conserving the local necessities of the Territory, be an assurance of our fidelity to the nation, and satisfy the exactions of public opinion on questions in which Utah is regarded as not in harmony with the rest of our common country. Whether we shall do this or not will chiefly depend upon you. With you will be the initiation of measures looking to this result. If to you it should seem advisable, and if we be fortunate in perfecting these laws by mutual consultation and by reaching a common ground, we may, in conclusion of our labors, congratulate ourselves upon the consummation of a great and patriotic work."

Foreseeing the troubles that would come, and which have beset many of the people of the Territory, I then earnestly desired to co-operate with that body to avert them by means of wise and essentially necessary Territorial legislation. I assure you that I shall now be gratified to do so "with all the earnestness and capacity I possess." But my appeals and warnings were unheeded, as others had been by previous legislatures and that body left a heritage of contention and strife painfully well known to all, which in my opinion it was their highest and first duty as citizens and representatives to have avoided. That failure was "a grave political blunder far-reaching in consequent results," and one which the country has not failed to appreciate and condemn.

DEFINED RIGHTS.

The powers of a Territorial form of government are no longer unknown, and what are rightful subjects of legislation consistent with the Constitution of the United States and of the acts of Congress are no longer undefined. The rights of the people under the law, are now with some degree of certainty determined. The powers of the Territorial government, and the rights of all the people, and their political privileges, should be jealously guarded, by us as well as by all citizens, and this may be done only in yielding unfaltering allegiance to the United States by giving aid and comfort to the government, and in conforming legislation and our actions as citizens not only in yielding obedience to, but in upholding and aiding in the execution of all laws.

WRONG ADVICE.

The people of the United States, irrespective of party, (for at no time have the questions or difference here been party questions) and the government, have time and again, and in express terms declared that practices of the people, and theories of legislation indulged in by your predecessors, were wrong and hurtful and debasing. The President will not recede from his high purposes, nor permit a stay of the vigorous execution of the laws, nor will Congress long delay in passing necessary additional legislation. It is idle for any to hope otherwise, and a grievous wrong in those who would counsel the people to hold out against the enforcement of the laws of their country, or who would stay your hands and mine from the performance of our direct duty. The man who in practice holds to theories of a construction of the Constitution and laws adverse to the construction placed upon them by the courts, endangers not only himself, but all who are misled by him. In view of the situation in Utah and the prevalence of such advice, the duty is the more imperative upon us, as the law-making power, to conform our statutes to the adjudications of the courts and thereby shield the people, who by our silence may be misled and eventually will feel, the penalties of outraged law.

PERNICIOUS THEORIES.

The history of national legislation demonstrates the manifest reluctance of Congress to legislate in purely local affairs. The fact that Congress has disapproved of much of the legislation of Utah, and from time to time has gone further and dealt directly with the purely local affairs of the Territory, and that more extended legislation is now pending before that body, impels me to ask your serious attention to the fact, and your consideration of the reasons. In my opinion the controling element in Utah has fallen into and has persisted in a groove of mistaken thought. Subjects held by them as of vital importance are mere shadows. Principles instilled into the people are to be unlearned by them. The prime fact that their highest allegiance is due to the government has been and continues to be held as secondary to other considerations, and that rights and duties have by many been honestly confounded with franchises and principles as laid down in the Constitution. So prevalent has become this line of thought that very many whose purposes in life are honest, and who believe themselves to be faithful citizens, are zealous in withstanding by argument and action and in cases have conspired to defeat the plainest provisions of National law.

WHAT WE SHOULD DO.

I therefore affirm that it is our plain and unmistakable duty to supplement and aid in carrying into successful application every law passed by Congress which has been determined by the Supreme Court to be constitutional; that we should endeavor to keep the people from wasting their strength in crying out against the Government and its laws and the courts, for that will but prolong hate and discord.

We should see that the Territorial government is organized in all of its parts in conformity with the laws of Congress; that the system of plural wives or polygamy is denounced by Territorial statute, and that the marital and property rights of women are made secure and ample; that the exercise of political power by ecclesiastical authority, which is not tolerated in the slightest degree elsewhere, should be abolished in Utah.

CONSEQUENCES IF WE DO NOT.

We may spend the days of this important session in dealing with the lesser but still important questions arising in our every-day affairs, but until we meet fully and fairly and definitely settle the questions of organic difference between the people of the United States and the people of Utah, legislate as we may, labor and strive and build as we may, there yet will be imputations against us, and there can be no lasting peace or that vigorous growth to the Territory that our resources and location warrant. Else we shall find in the future as we have found in the past, that year after year as we grow in age and numbers, instead of a fuller manhood we shall be curtailed in what are now under the law rightful subjects of legislation, and perhaps stripped by the hands of the Parent Government of that political power, which strengthens and so well adorns American citizenship, and which cannot and has not been stripped from any who rightfully and loyally wear it.

COURT DECISIONS CONCLUSIVE.

The courts are the proper places in which questions of law may be determined and the rights of individuals, charged with public offenses, properly defended. In the contest by the Government upon one side in executing the laws of Congress, directed against polygamy and unlawful cohabitation, and an organized and determined effort to defend the system of plural marriage upon the other, the methods and arguments presented, unfortunately have not been confined to the courts.

FRUITS OF ECCLESIASTICISM.

I have in my possession a circular signed by the presidency of the Church of Latter-day Saints, which in set terms designates the Territorial Central Committee of the People's Party as the instrument through which to raise funds, to defeat the laws in Utah, Idaho and Arizona, thus making the politics of the people subject to the direct dictation of ecclesiastical authority.

The instructions contained in this circular have been followed, in the main, so far as defenses before the courts are concerned. These instructions and other and like teachings having reached those intended to be reached, have produced a feeling more intense and more united than ever. The press which represents the church party intensified their inflammatory denunciations of the courts, and indulged in coarse and unwarranted denunciation of faithful officers, charged with the administration of public justice, abating nothing even after their actions had been sustained by the Supreme Court and the President. Acts of disloyalty, nastiness and violence naturally followed, and the inflamed tone of the press which defended these acts, tended to provoke riot and bloodshed.

In the absence of an available militia to support, if necessary, the civil authorities in preserving the peace, very proper and prompt orders were given to, and disposition made, of the troops of the United States under General McCook, by reason of which dangerous excitement was allayed.

The quiet that followed, and that which now prevails, furnishes full justification for this action, and demonstrates the wisdom of the President in promptly acting in the premises.

QUESTIONS REQUIRING ANSWERS.

The financial and educational interests, and the public institutions of the Territory, are imperilled, and the happiness and general welfare of the people are involved in these matters which I have presented for your consideration. In the interest of all classes and of the people of every religious and political belief, this condition of affairs should be quickly terminated. With this end in view, I respectfully submit for your consideration, with an earnest request for an early expression of legislative opinion upon them, four questions, for the reason that much of important legislation may be dependent upon or advanced by your expressed will upon the vital issues contained in them:

First:—That the organization of any part of the Territorial Government in a manner other than that prescribed by Congress, is unlawful, and that all laws of the Territory, conflicting with the laws of Congress, should be repealed.

Second—That the laws of Congress are paramount and should be obeyed by all citizens, and that it is the duty of all Territorial, county and precinct officers and citizens of the Territory, to aid in the enforcement of all laws, including those directed against bigamy, polygamy and unlawful cohabitation.

Third—That it is the duty of the legislative authority of the Territory, by proper and supplementary legislation, to aid in the execution of all laws, including those directed against bigamy, polygamy and unlawful cohabitation. If, however, you deem these or any one of them to be wrong, and that your duty to yourselves and those you represent will not admit of your approval of them, then I submit that it is a duty you owe to yourselves and to the country, to resolve that you are of opinion that the questions submitted by the Governor do not have your approval in whole or in part.

Questions No. 1, 2 and 3, agreed to, and laws passed by you embodying these requirements of the country, will quickly terminate Congressional action, and relegate to the people here authority in matters now withheld from them.

If, in your wisdom, you should see proper to adopt the fourth question suggested, or one of like import, I recommend that you frankly and fully give your reasons, in order that Congress may consider them, and if convinced of the rightfulness of the claim, promptly repeal all legislation conflicting with those views, or if disagreeing with your views, may supply the legislation rejected by you.

UNLAWFUL GOVERNMENT.

I recommend the appeal of all laws and parts of laws, inconsistent with section seven (7) of the act of Congress establishing the Territory of Utah. All Territorial officers created by Territorial statutes are holding on by virtue of unauthorized and unlawful elections, some of them held years ago, and contrary to the law of Congress, an adjudication of the Supreme Court of the Territory, the decision of the Utah Commission, and the late decision of Hon. A. H. Garland, Attorney-General of the United States, which is as follows:

DEPARTMENT OF JUSTICE,
Washington, D. C., June 5, 1885.

SIR.—At the instance of the Utah Commission, the honorable (H. L. Muldrow, Acting) Secretary of the Interior, in a letter dated the 22d ultimo, requested my opinion upon the following questions:

Whether certain Territorial officers in Utah, namely, superintendent of district schools, auditor of public accounts, treasurer, and commissioners to locate university lands, should be appointed by the governor, with the assent of the Legislative Council or chosen by the people at their general election.

For convenience, so much of the question as relates to the commissioners will be considered separately, as the appointment or election of those officers appears to be controlled by a provision not applicable to the other. Upon examination of statutes enacted by the Territorial Legislature, it appears that the superintendent, auditor and treasurer are thereby required to be elected biennially at the general election by the qualified voters of the Territory. (See Compiled Laws of Utah, 1876, page 227; act of February 22, 1878, chapter 11, Laws of the Twenty-third session, page 27).

The organic laws however (see section 7, of the act of Congress of September 9, 1850 chapter 51), declares that "the governor shall nominate, and by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for." And as the three Territorial officers last mentioned are not herein "otherwise provided for," a direct conflict manifestly exists between the statutes of the Territorial legislature above referred to and the organic law.

The organic law of a Territory takes the place of a constitution as a fundamental law of the local government. It is obligatory on and binds the Territorial authorities. (National Bank vs. County of Yankton, 101 United States, 29.) Any act of the Territorial legislature inconsistent therewith must be held void. (Ferris vs. Higley, 20, Wall. 375.) Congress may, undoubtedly, make a void act of the Territorial legislature valid and a valid act void. (101 U. S. *supra*.) But for the exercise of this power some *legislative act* on its part having that effect would be necessary. Certainly nothing can be *implied* in favor of the validity of a Territorial statute which conflicts with an express provision of the organic law of the Territory from the mere fact that Congress has not disapproved it.

It follows that the statutes of Utah, in so far as they require the superintendent of district schools, auditor of public accounts, and treasurer of the Territory to be *elected*, being contrary to the organic law hereinbefore mentioned, are a nullity, and that those officers should be *appointed*, in conformity to that provision.

A similar conclusion was reached by the Supreme Court of that Territory in regard to the Territorial marshal, who, by an act of the legislature of the Territory, was required to be elected by a joint vote of both houses thereof. The court held the act to be unconstitutional with the provisions of the organic law above adverted to, and therefore void. (See *Ex parte* Duncan, etc., 1 Utah Rep., 81.)

In regard to the commissioners, these officers are by the Territorial statutes required to be elected annually by the qualified voters at the general election. (Comp. Laws of Utah, 1876, p. 241.)

By the third section of the Act of Congress of February 21, 1855, chapter 117, a certain quantity of land was reserved for the establishment of a university, to be selected under the direction of the legislature, etc. The legislature of the Territory provided for the selection of this land by creating a board of commissioners, to consist of three men, elected as above, and devolving upon such board the duty of selecting the land. I am of the opinion that the Territorial legislature, by virtue of said act, was vested with full power over the selection of the land, including the establishment of the agency by which such selection was to be accomplished. It was at liberty to devolve the duty of selecting on officers already created, or authorize the appointment of persons for that purpose by such officers or by the Governor, or otherwise provide the instrumentality for carrying its will upon the subject into effect.

The commissioners in question are not, therefore, to be regarded as within the operation of the above-mentioned provision of the organic law, and their election in the manner prescribed by the Territorial statutes is proper.

I am, sir, very respectfully,
A. H. GARLAND,
Attorney-General.

HON. L. Q. C. LAMAR,
Secretary of the Interior.

Conforming my action with this opinion, I have yielded the right claimed by the Executive to appoint "The Commissioners to Locate University Lands," and have issued commissions to the persons elected to these places. Action in the matter of appointing other Territorial officers was delayed until now in the hope that this Legislature would, in accordance with the decision of the Supreme Court and the opinion of the Attorney General, correct the, I fear, worse than mistake of your predecessors in overriding the law of Congress, and thereby continuing an unlawful Territorial government in part.

Original appointments in these departments of the Territorial government under this section of the law were very properly made by my predecessor, Governor Young, and his authority to do so was not then questioned by the Legislature. Your prompt attention to this important matter is asked for the reason that very important business and educational interests are involved, and it is questionable if the bonds heretofore given by these *de facto* officials would protect the public in case of unlawful expenditures, defalcations or malfeasance in office.

MARRIAGE LAWS.

I recommend the passage of the following marriage law, which I am advised, is embodied in a bill now pending before Congress and applicable to Utah:

That every ceremony of marriage, or in the nature of a marriage ceremony of any kind in Utah Territory, whether either or both or more of the parties to such ceremony be lawfully competent to be the subjects of such marriage or ceremony or not, shall be certified in writing by a certificate stating the fact and nature of such ceremony, the full names of each of the parties concerned, and the full name of every officer, priest and person, by whatever style or designation called or known, in any way taking part in the performance of such ceremony, which certificate shall be drawn up and signed by the parties to such ceremony, and by every officer, priest and person taking part in the performance of such ceremony, and shall be by the officer, priest, or other person solemnizing such marriage or ceremony, filed in the office of the probate court, or, if there be none, in the office of the court having probate powers in the county or district in which such ceremony shall take place, for record, and shall be immediately recorded. Such certificates shall be *prima facie* evidence of the facts required by this act to be stated therein, in any proceeding, civil or criminal, in which the matter shall be drawn in question. Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than one thousand dollars, or by imprisonment not longer than two years, or by both said punishments, in the discretion of the court.

That every certificate, record, and entry of any kind concerning any ceremony of marriage, or in the nature of a marriage ceremony of any kind, made or kept by any officer, clergyman, priest, or person performing civil or ecclesiastical functions, whether lawful or not, in any Territory of the United States, and any record thereof in any office or place, shall be subject to inspection at all reasonable times, by any judge, magistrate or officer of justice appointed under the authority of the United States, and shall, on request, be produced and shown to such judge, magistrate, or officer, by any person in whose possession or control the same may be. Every person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than one thousand dollars, or by imprisonment not longer than two years, or by both said punishments, in the discretion of the court. And it shall be lawful for any United States commissioner, justice, judge, or court, before whom any proceedings shall be pending in which such certificate, record, or entry may be material, by proper warrant, to cause such certificate, record, or entry, and the book, document or paper containing the same, to be taken and brought before him or it for the purposes of such proceeding.

That nothing in this act shall be held to prevent the proof of marriages, whether lawful or unlawful, by any evidence now legally admissible for that purpose.

DOWER.

I repeat my recommendations to former Legislatures relative to the right of dower. Justice demands this right for wives, and every enlightened argument favors it. In no State or Territory is it denied, except where something better is given. To bestow the right of suffrage and to deny the right of dower or its equivalent, is an anomaly. The present law is a sham.

PUBLIC OFFENSES.

I recommend the enactment of laws against polygamy, bigamy and unlawful cohabitation, commensurate with the law of Congress, as interpreted by the Supreme Court of the United States, and against incest, seduction, bastardy, adultery and fornication, and a more comprehensive statute against lewd and lascivious conduct, and the strictest statutes against those who entice or allure women to be victims of unlawful sexual intercourse, or to visit houses of prostitution. The establishment or keeping houses of assignation and prostitution and conspiracies to establish or keep such houses, with a view of entrapping men or women into them for the purpose of witnessing or exposing their lewdness to, or gratifying the bestiality of, persons in concealment, should be made a felony.

MILITIA.

Every well-ordered Government should have a military force to support, in case of necessity, the civil authorities in executing the laws, in preventing riot and bloodshed, and to preserve the lives and property of the people.

I recommend the repeal of the law establishing the "Nauvoo Legion." The theory upon which this law is constructed is wrong, and organized to be independent of the Executive who, under the Organic Act, is the commander-in-chief, and it is faulty throughout. Utah should have a legally organized and well-ordered militia, under the authority of a statute carefully prepared in its details.

DEBT TO THE GOVERNMENT.

I am informed that there is charged on the books of the Treasury a large amount against the Territory on account of expenses of enforcing local criminal statutes and keeping prisoners, etc. I have requested the Government to state the account, and to advise me of its wishes in reference to it. We should take steps to have the amount wiped out if proper, or make provisions for its payment. Upon being advised I shall further communicate with you on this subject.

HOUSE OF CORRECTION.

I repeat my former recommendations and urge the necessity of a House of Correction for juvenile offenders, and the establishment of an Orphan Asylum.

APPORTIONMENT.

In my message of two years since I said that the present apportionment of members of the Legislative Assembly is defective, in that the districts are, in many instances, so constructed that several members are chosen on a common ticket, instead of giving each locality—having the necessary population—the right to choose its own members. I recommend that the districts be so constituted that each shall have a voice without being overborne by a larger neighbor, which may be combined with it as now. This is true apportionment; the other is consolidation. The same applies to the manner of choosing municipal officers. Each precinct should have its own representative, elected by a majority of its citizens, instead of electing all, as now, on a common ticket. This defective system still exists, and I recommend that the defects pointed out be remedied. A bill of the last Legislature, upon this subject, reached me in the last hours of