

## THE DESERET NEWS.

TRUTH &amp; LIBERTY.



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## United States Appointments and Legislation for her Territories.

In the second paragraph of the Declaration of Independence are the following words, "governments are instituted among men, deriving their JUST powers from the CONSENT of the GOVERNED," and for the purpose of securing "certain inalienable rights," among which are "life, liberty and the pursuit of happiness." It is urged by some that the Declaration is purely an abstraction, but however much of an abstraction, when compared with the validity of legal enactments, a truth enumerated therein is as self-evident and as worthy of proper observance as though clothed with the panoply of law. In fact it is alone by the observance of truths that enactments can abide the rush of progress, and the rights of people be permanently secured. A disregard of this principle cost the British government its most valuable possessions in America, and, if so powerful a nation could not successfully coerce its subjects by oppression, that should at least learn others that a united and firm government with a happy people can never long abide the test now being applied to the powers that be, except those powers are based upon the immutable principles of even-handed justice.

In all governments there must of necessity be laws, which involves decisions upon and enforcements against their infraction, whether the power be vested in one supreme head, or whether in several departments, or whether in three as in our own nation. But regardless of the mode of administration, no government, independent of the free or tacit acquiescence of the masses, need look for permanency, for what is any man, king or emperor though he be, or any set of men, even though dignified by the title of Congress, when ruling regardless of the just rights of the governed? Now, in conduct towards Territories, does Congress fairly and fully regard the force of the word "CONSENT" of the GOVERNED? Verily no, for by their "advice and consent" certain Territorial officers are appointed by the President, and they also cut and carve certain organic acts for Territories, utterly regardless not merely of the "CONSENT" but also of the well known and expressed wishes of the 'GOVERNED.' As before hinted, it may be argued that this usurpation of power is only in contravention of the Declaration, which is purely an abstraction. Let it be granted, for argument's sake, that such is the case, it still remains that the President and Congress override an eternal and immutable principle of justice, by appointing officers and making laws without the vote and contrary to the expressed rights and wishes of a portion of the 'governed' in a professedly republican government.

Having fairly and truthfully stated the case so far as the 'Declaration' is concerned, we will next proceed, with the same candor and love of the Constitution and equal rights, to canvass certain principles contained in that supreme LAW of the land, the Constitution. In that document, ordained and established "in order to form a more perfect UNION, establish JUSTICE, insure DOMESTIC TRANQUILITY, provide for the common defence, promote the general welfare, and secure the blessings of LIBERTY to ourselves and our posterity," we find the supreme power distributed among the legislative, executive and judicial departments. A knowledge of the metes and bounds of these several departments, as set forth in the Constitution and amendments thereto, with a knowledge of the acts of those departments, will readily enable any one, who loves the purity of our institutions, to determine when they are acting legitimately in their several spheres.

Taking the divisions as we find them, we learn that "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." (Art. I, Sec. 1, of the Constitution.)

In section 8 of the same article we find those powers enumerated as follows:—

## SECTION VIII.

The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States;

but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of 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 according to the discipline prescribed by Congress;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, 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.

The loosest and vaguest expounder of the above enumerated specific and general congressional powers cannot, in honesty and in fairness of construction, infer any Constitutional right or power vested in Congress to appoint officers for the inhabitants of her Territories, nor to in any manner legislate therefor in a channel that would not be equally applicable to States containing Indian tribes, government lands, sea-coast, &c. Should any one be disposed to take shelter under the words "general welfare" in the first paragraph of section 8, it is sufficient to reply that both text and context obviously apply that power to the caring for the United States as a whole, and not for any one State or Territory, nor for any other number less than all of them. But another person may fancy that he finds a right for appointing officers and legislating for the free white inhabitants of Territories (as Congress dare not presume to do for like inhabitants in States) in the words "and all other powers," as found in the last paragraph of the section quoted.

Lest such person should rest content with so incorrect a conclusion, we will proceed in search of the "all other powers," at least so far as pertinent to our caption, which brings us to Article II, concerning "the executive power." In the second paragraph of the 2d section of that Article, we find that, after specifically enumerating certain officers, the President is authorized to appoint "all other officers of the United States, whose appointments are not otherwise herein provided for and which shall be established by law." A glance will show that Governors and Secretaries, also District Judges, Marshals and Attorneys as now appointed for Territories, are not found among the appointments provided for by specification; neither can such officers be found among such as "shall be established by law," for there is no provision in the Constitution authorizing in any wise the enactment of a law for creating such officers.

As "The judicial power" does not legislate, nor appoint officers of the kind in question, we will next examine Article IV, and quote the 2nd section. "The citizens of each State shall be entitled to all the privileges and immunities of the citizens in the several States." Why not the citizens of Territories be so 'entitled'? We re-iterate, without any fear of correct contradiction, that there is no Constitutional why not. This statement brings us to the second paragraph of the 2nd section of the

same Article, and as it is the main point upon which the most ultra advocates base their arguments in favor of appointing officers and legislating for the free white inhabitants of Territories, we will also quote it entire. "The Congress shall have power to dispose of and make all needful regulations respecting the territory or other property belonging to the United States; and nothing shall be so construed as to prejudice any claims of the United States, or of any particular State." When the words 'territory or other property' and the word 'claims' are taken with their context, and due force given to the word 'or' after the word 'territory,' it is more than strange that any one should be so reckless of his credit for the most ordinary judgment and the most superficial knowledge of our language, as to urge for a moment that 'territory' is not here applied exclusively to domain—certain defined surfaces of land then owned and thereafter to be owned by the United States—and not to the inhabitants thereon.

A part of section 4 of Article IV reads, "The United States shall guaranty to every State in the Union a republican form of government." Why not at once admit Territories as States, upon their application, and abolish the perpetuation of the English kingly system of colonial vassalage in a professed Republic? Would that be too great a stride for pigmy politicians, towards fully carrying out the letter and spirit of the Constitution?

We have now carefully gone through the Constitution, and have presented the best extracts that we can find therein towards authorizing the President and Congress of the United States in appointing officers and legislating for the free white inhabitants in Territories, more than for those in States, and behold there is no such Constitutional authority nor even the shadow of it. Neither is there any such authority in the 'amendments' to that Constitution, but on the contrary Article IX of those 'amendments' reads, "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people;" and Article X, "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."

Inasmuch as there is no Constitutional authority for the President and Congress to appoint officers and legislate for American citizens in Territories any more than for those in States, and inasmuch as such a course is an illegal stretch of power and in direct contravention of a fundamental principle contained in the Declaration, it may well be wondered how and why the present Territorial policy became instituted and still continues to be perpetuated. The thirteen federal States, emerging from the British colonial yoke, found themselves entering upon the field of untried experiment, surrounded by circumstances more or less new, and the wisest and best of them strongly influenced by habits formed while under colonial government, and deeply traditioned in looking up to the mother country. Hence it is not a matter of much surprise that they should cling, to a certain extent, to former customs and traditions, while so soon called upon to legislate for that region of country outside the thirteen original States, nor that they should, on account of that influence, measurably curtail their brethren of their just and equal rights, if they moved beyond certain boundaries, even though that movement was of citizens upon common soil and for the spread of the area of freedom. But it is surprising that that old Territorial system of government, an unconstitutional blending of monarchy and republicanism, should be continued to this our day, and even its policy be advocated by persons who plume themselves with a reputation for statesmanship, and be tamely submitted to by enlightened and experienced Americans living in the year 1857.

So far as the free, untrammelled consent and expressed wishes of the governed are concerned, should the majority of the citizens in a Territory choose to waive their Constitutional rights and prefer a state of vassalage, a state of being ruled by officers thrust upon them and legislated for by usurped authority, we see no reason why their choice should not be complied with, at least upon the principle of the voluntary consent of the governed. But when said majority, even to the extent of an entire community, are known to most persistently prefer officers of their own election to those foisted upon them by arbitrary power, and purely republican laws of their own enactment to laws carved, dictated and forced upon them by a

power to which the Constitution gives no such authority, we are constrained to say that most truly are men prone to oppress their fellows.

How long, think ye, can such oppression be quietly endured? How long, think ye, will any people submit to the dictates, slanders, corruptions and abuse of officers whom they have no voice in electing, and whose efforts are constantly put forth, to their utmost, for the destruction of the people among whom they are sent? Suppose ye that the few dollars parsimoniously doled out by Congress can buy freedom to overlook such glaring inconsistencies?

THE LAST CAL. MAIL brought Nos. 41 and 43 of the Star, Oct. 11 and 25 and Nov. 1 of The Mormon, a file of the Standard and Sac. Weekly Union to Nov. 29, a broken file of the California Farmer and Sacramento Age, and, as latterly, plundered packages from our friends J. W. Sullivan and the Noisy Carrier in San Francisco.

Were the California special mail agent worth a tow string, it would seem to be an easy matter for him to ferret out the plunderers, for it is not presumable that the packages are rifled in the San Francisco post office where papers and periodicals are so cheap and plenty, nor on the mail steamers; this reasonable presumption narrows down the plundering to some place or places between leaving the steamers and San Bernardino, a very short line for the mail agent to overhaul. Will he do it? Yes, if he regards the rights of others and the duties of his office, as much as he does his ease and salary.

ARRIVAL.—We are informed that Mr. Gerrish, of the firm of Gilbert & Gerrish, arrived on the 19th inst.; also that he left the Missouri on the 13th of Nov., passed, at the Platte Bridge, some old mail matter on its way here, and met at Independence Rock Mrs. Feramor Little and Ephraim Hanks on their way east with the mail; they were well and making good progress.

SNOW.—Judge Phelps informs us that the entire fall of snow in this city, up to the 24th inst., has been over eight feet. November, December and most of January have been remarkably stormy, and many grass ranges have snowed under where heretofore but little snow has fallen. Some stock has been starved to death and some roofs crushed by the depth of the snow, a good hint to provide shelter and forage for stock and make stronger roofs.

The past few days have been pleasant, and the snow is settling.

THE FEMALE RELIEF SOCIETY in the 14th Ward, Mrs. Phebe Woodruff, President, and Mrs. Kezia D. Pratt, Secretary, have made their first quarterly report, from which it appears that up to Dec. 25th the receipts amounted to \$165.45 and the disbursements to \$83.06, being mainly composed of bedding, clothing and provisions.

This Society, although organized so recently as the 17th of Sept. last, has already been instrumental in affording much aid and comfort to the few needy and destitute in the 14th Ward, and also to several who came in the hand-cart companies.

## Summary.

—Alexander II was crowned Emperor of Russia in Moscow on the 7th of Sept.; there was much parade on the occasion.

—Kansas affairs were in a more quiet condition.

—The Indians in Oregon and Washington Territories were not altogether peaceable, and it did not appear easy to tell when they would be; neither will it be easy to foresee that time, until the whites learn that love, instruction and kindness win more surely and permanently than do abuse and slaughter.

THE EXPLORATION OF THE NILE.—The parties who compose the expedition for the discovery of the source of the Nile are assembled at Cairo, and propose to commence their journey on the 12th of October. They comprise twelve scientific or military men, twenty-four artisans, 400 Egyptian troops, camel drivers, boatmen and servants, numbering altogether upwards of 500 souls. The navigation of the Nile is to be under the direction of a lieutenant in the British navy; the land transport is to be guided by an Austrian, and the troops are to be commanded by an Austrian officer who served with distinction in the Hungarian insurrection, for which he wears a decoration.

EVERY MAN USEFUL.—God has distributed his gifts. It takes a score of them to make one man. One supplies the swift sagacity; another the cautious logic; another the impelling force; another the hope; another the practical tact; one supplies general principles, another the working plan.