

sacrifice any or all these; but to yield them up, or any of them, without some great paramount cause, is *felo de se*.

For a person or a community of persons to yield his or their right to worship God, or neglect to exercise that right as he or they sincerely believe He requires of him or them, is worse than yielding up their life or liberty without cause.

Religion in man is strong and powerful, stronger than life, stronger than death, stronger than liberty or the pursuit of happiness. On it hang his hopes of this life, on it his hopes of Heaven. For it he lives, for it he dies, for it he endures pain while he lives; and it makes no difference whether he be Jew or Greek, bond or free, black or white, "Mormon" or "Gentile," all claim the right, and all feel oppressed in the abridgement of the right. In America all are unlawfully oppressed if that right be abridged.

Having taken a short view of the subject as it existed, when the United States were colonies, I will now proceed to some instances at, and subsequent to, the Declaration of Independence.

In 1787, two years before the adoption of the Constitution, Congress passed the Ordinance for the Government of the Territory northwest of the Ohio. By it Congress declared that religion, morality and knowledge were necessary to good government, and that no person demeaning himself in a peaceable and orderly manner shall ever be molested on account of his mode of worship or religious sentiments in said Territory, and that this should be a Compact between the original States and the people and States in said Territory, and forever remain unalterable, unless by common consent. It also said this was established for extending the *fundamental principles of civil and religious liberty*, which form the basis whereon these republics, their laws and constitutions are created, and to fix and establish those principles as the basis of all laws, constitutions and governments, which forever hereafter shall be formed, &c. Here I find the whole thirteen original States, by their members in Congress assembled, declaring that the fundamental principles of these republics are *civil and religious liberty*, not one without the other, both being pillars of governments, their constitutions and laws.

Civil liberty can not exist in this or in any other country without religious liberty, nor can religious liberty exist without civil liberty. They are "twin sisters," yea more, they are identical. To destroy one you by the same act destroy the other; in striking at one you strike the other.

These, then, being the pillars of the republics, their constitutions and laws, before the adoption of the Federal constitution, they, like every other power, would be retained for the States and the people, unless expressly surrendered to the United States. But, we have before said, no absolute right could be sold, transferred or surrendered, and consequently these could not be. The very sale, transfer or surrender would destroy the right. They, in the language of some of the books, are inherent, inalienable rights.

The very object of the Constitution and Laws of the republics, and the Constitution and Laws of the Federal Government, was the perpetuation and protection of these rights, not the destruction of them or either of them. The same sentiment is contained in the Declaration of Independence: "We hold these truths to be self-evident," it says, "that all men are endowed by their Creator with certain *unalienable rights*, among these are *life, liberty*, and the pursuit of happiness, and to secure these rights governments are instituted among men."

With these views the Constitution of the United States was adopted, without saying any thing on the subject of *religious liberty*; but, subsequently, out of abundant caution, an amendment was proposed and adopted containing these words: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." This would seem to be a sufficient guarantee against all encroachments upon the rights of conscience and the free exercise of religious liberty, and it is conceded that, until a few years past, it has been sufficient.

It will be perceived that I have not examined the several State Constitutions on the subject; yet, I will say, that so far as my knowledge extends, the same doctrine is asserted in them all.

In 1847, the first settlement in Utah was made at Great Salt Lake City, by a community who came here to enjoy the right to worship God according to the dictates of conscience. On their arrival

they bowed, gave thanks to God, and consecrated themselves and the land to Him; at the same time set apart ten acres on which to build a Temple and other houses of public worship, so much honored by the Prophets and Apostles of old. At this time Utah belonged to Mexico; but the community settling here being citizens of the United States, and it being a time of war between the United States and Mexico, it has been considered within the power of the United States. In the month of February following Mexico ceded it to the United States.

In September, 1850, Congress passed the Organic Act, and in it extended the constitution and laws of the United States over the Territory. Therefore, from July 24th, 1847, until September 9th, 1850, there was no law of the United States in force here, nor was there then, nor had there ever been, any law of Mexico in force here, which shows that during that time there was no law of civilized man to be violated.

But they, like the Plymouth Colonists, had the paramount law of self-preservation, in which, as before said, are included life, liberty, both civil and religious, and the pursuit of happiness. They were American citizens, and as such had full and complete powers to establish a government on the basis of morality, knowledge, and civil and religious liberty.

Having these rights, they from the necessity of the case, by mutual consent, entered into a government; the male members meeting twice each year, and making laws, few and simple, but such as they most needed.

About the middle of March, 1849, the Government of the United States not having made any provision for the establishment of a government, the inhabitants of this valley adopted a Constitution, in which they say: it is a fundamental rule in all republican governments, that all political power is inherent in the people, and that governments are instituted for their protection, security and benefit.

They also asserted, that "all men have a natural, *inalienable* right to worship God according to the dictates of their own consciences; and that the General Assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

These questions may fairly be asked: Were these laws valid or invalid? Would rights accrue under them?

If, as it has been so universally asserted in America, civil and religious liberty is inherent in the people, and if all just powers emanate from them, it will seem to follow that these laws were valid. So it seems Congress viewed the subject, as, in the Organic Act, they provided for the oath of office of several of the United States officers to be taken before some person authorized by law then in force in this Territory to administer oaths.

There is another thing worthy of notice; it is this: the entire Territory was subject to the right of occupancy of the Indians, as generally understood by the practices of the United States. At any rate there had not been any treaty with them by which the Indians had ceded their right, if any they had, to the United States. Nor had the United States caused the lands to be surveyed, nor brought, nor attempted to bring them into market, nor passed any pre-emption law applicable to this Territory. During this period, there had been settlements made in the most eligible places, extending north and south about three hundred miles. Such was the condition of affairs here when Congress passed the Organic Act, giving the settlers a government.

In this Act, which is still in force, the Legislative Department was authorized to legislate on all rightful subjects of legislation, consistent with the Constitution of the United States and with the Act itself; but to this it enumerated certain exceptions, viz.:

1. No law shall be passed interfering with the primary disposal of the soil.

2. No law shall be imposed upon the property of the United States.

3. The land or other property of non-residents shall not be taxed higher than the lands or other property of residents.

No other restrictions on legislation are found which are necessary for me to notice.

It will at once be perceived that there could not exist a government here without occupying the soil, and occupancy of the soil is a rightful subject of legislation. It therefore follows, from necessity, that Congress intended that the Legislature should provide by law for the occupancy and improvement of the land; which they have done, and Congress has not seen fit to disapprove any of the laws on this subject. Vested

rights have now accrued which must be respected.

A few questions now suggest themselves to my mind: Can Congress repeal the Organic Act? If it can, will the repeal take away these vested rights? If the repeal shall be made, will that restore the people here to the rights they had before the passage of the Organic Act? Grave questions.

It is said that the power which can create can destroy; the power which can pass an act can repeal it. If so, it will seem to follow that Congress may repeal the Organic Act. But is this so?

While I will not deny but that in many subjects of legislation the power to pass a law implies the authority to repeal it; and that in many cases the power to create has the power to destroy, yet I must deny the universality of the rule. I will mention a few cases.

The President, by and with the advice of the Senate, may make a treaty; but, when made, he and the Senate cannot destroy it.

The President can nominate, and, by and with the advice of the Senate, appoint the Judges of the Supreme Court; but, when appointed and commissioned, neither the President, nor Senate, nor both, can oust them from office.

Congress can admit new States into the Union; but, when admitted, it can not lawfully put them out.

Congress may grant land for school purposes; but, when granted, it can not take it back; vested rights have accrued.

Congress may grant lands for Railroad purposes, and authorize the construction of roads over their soil; but, when the grant is accepted and acted upon, it can not repeal the law, nor take away vested rights, though no consideration was paid for the privilege.

Congress, in the places and districts of country over which it has the sole and exclusive jurisdiction, may create private corporations; but when created and acted upon, vested rights have accrued. If the power which creates can destroy at pleasure, what means the quite general clause in that class of laws: "that the Legislature reserves the right to modify or repeal the Act."

From 1781, two hundred years before the adoption of the Constitution, till the present time, the United States have created Territories and afterward received them into the Union as States.

During this time Congress has exercised the right of dividing the Territories into two or more, before admitting them into the Union as States; but, in such case, they have, in the Act creating the Territory, reserved the right so to do; and in no case have they reserved the right to repeal the Organic Act. Further still, in no case have they repealed an Organic Act. In the Organic Acts of Utah and Montana, as in the Organic Acts of other Territories, Congress reserved the right to divide the Territories into two or more Territories, and of attaching portions of them to some other Territory or State, but did not reserve the right to repeal the Organic Acts.

I find also by the Organic Act of Utah a pledge that it shall be received into the Union as a State. True, it does not state when, nor under what circumstances it shall be received.

Correspondence.

PROVIDENCE, CACHE CO.,
JANUARY 26, 1868.

Editor Deseret News:—The winter having fairly set in, with plenty of snow, and good sleigh roads, the Missionary party, appointed by President Benson before leaving for Salt Lake City to assume his Legislative labors, met at Wellsville on Saturday morning, January 18th, to commence a two days' meeting. The weather was bitterly cold, sharp enough to call for overcoats, wraps, and the largest, and warmest kind of comforters, to save the animal heat, and preserve the extremities from freezing. The Deacons had made good calculations, and had been diligent in keeping on a good fire in the stove of the commodious meeting house, so that the people, as they arrived, began to taste the comfort of a little care and forethought.

Of the Missionaries there were Bishop Wm. Hyde, (who presides in the absence of President Benson,) Bishops Wm. Budge, and L. H. Hatch, and Elder J. Hatch; there were also present Bishops T. E. Ricks, O. N. Liljenquist, G. O. Pitkin, and A. P. Shumway, and a number of Elders from the different settlements, some of whom were the guests of Bishop Wm. Maughan, and the remainder distributed among the good citizens.

The first meeting was addressed by Elders L. H. and J. Hatch, on the gen-

eral duties of the Saints, and education in particular, the brethren having great liberty in speaking; at the evening meeting the subject of education was resumed for a short time by Bishop Budge, after which the leading and most important matter for the consideration of the Saints, viz: the deliverance of the poor from the old world, was introduced by Elder Hyde, who explained the feelings of President Young as conveyed to us in his late discourses, and from our knowledge of his anxiety expressed on many former occasions, in reference to the gathering of the poor, and very forcibly advocated the propriety of the requisition made upon us, calling upon the Saints to manifest their faith and good feelings, by donating liberally for their deliverance.

On Sunday morning, the gathering of the poor was again brought before the people by Elder Budge, after which Elder Archibald N. Hill, (lately from England,) gave a description of the condition of the Saints in that country, of their poverty, and their prayers that their way might be opened to gather with the Church. Elders Wm. Hyde, Liljenquist, L. H. Hatch, T. E. Ricks, J. Hatch, and Wm. Maughan, followed during the day on the same subject, but with many arguments, and in every light in which they could place it, to enlist the sympathies of the people; and to judge from the interest which was manifested, they were, with the blessing of God, successful.

The meetings were well attended, and the choir sang some very good music, very spirited and in good taste.

In order to hurry on the donation in all the settlements as fast as possible, the Elders separated to attend meetings in the evening, Elders Hyde and Maughan, to Mendon, L. H. and J. Hatch, and A. N. Hill to Logan, O. N. Liljenquist and G. O. Pitkin to Hyrum, and William Budge to Providence, to meet in Logan on Saturday morning the 25th inst., at 11 a.m., to hold another two days' meeting. During the interval the following places were visited by the Missionaries: Smithfield on Monday, Franklin on Tuesday, Richmond on Wednesday, and Millville on Thursday evenings.

Yesterday morning, according to appointment, meeting opened in Logan, when the redemption of the poor, the law of marriage, the Word of Wisdom, and many other items pertaining to the Gospel of life and salvation, were laid before the people with much power, by Elders L. H. Hatch, O. N. Liljenquist, G. O. Pitkin, J. Hatch, W. Budge and W. Hyde. Our meetings were crowded to overflowing, and an excellent spirit prevailed among the people, who seemed to receive the truth with joy and thankfulness, whilst the Lord greatly blessed those who ministered the words of life.

The last meeting was occupied by Elder Hyde, in giving some of his experience in the Church, and in relating some of the incidents which transpired under his observation, during the rise and progress of the work, which was very interesting and instructive to the people; in it he showed how necessary it was that every Latter-day Saint should continue to keep the commandments of God in spirit and in practice.

Elder W. H. Shearman was appointed, by general vote, Superintendent of Sunday Schools in Cache county; Bro. S. is the father of Sunday Schools in our valley, and has since the beginning taken an active and unceasing interest in them, and there is no doubt but that his appointment will give an impetus to this saving work throughout the county, as he is expected to visit the schools of the settlements, and introduce as much as possible, a unity of effort in the labors of the teachers.

Accounts have reached us from nearly all the settlements, showing the interest felt by the people in the deliverance of the Saints from Europe; the present donation (principally in stock) for their assistance, will so far exceed all former donations, that the former donations will be remembered no more, and in their liberality, (especially after the loss of most of our crops) we see the spirit of love and kindness, of true fellowship, which the Gospel has begotten in the Saints, and an evidence of their willingness to use the means which God has given them, for the best purposes of the Church.

On Saturday and Sunday next, the Missionaries hold another two days' meeting at Richmond; these meetings are held at different places for the convenience of the people, in accordance with instructions from President Benson and Bishop Maughan, that the Saints may be instructed in their seasons of leisure.

WILLIAM BUDGE.

BEAVER, Jan. 29, 1868.

Editor Deseret News:—The winters in Beaver county generally pass away