

Correspondence.

LETTER V.

"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: In my last, not being able to do justice to a subject of such great importance as the Territorial Question, in the limited space allotted for a newspaper article, I proposed to present further evidence and argument in relation to this matter. I previously gave the opinions of Mr. Calhoun, Gen. Cass, Governor Walker and Senator Douglas, and extracts from the Constitution of the United States. President Buchanan on this subject says, this legislation is founded on principles as ancient as free government itself, and in accordance with them has simply declared that, the people of a Territory like those of a State shall decide for themselves. The Constitution of the United States commences with "We, the people of the United States, in order to form a more perfect union, establish justice, insure DOMESTIC TRANQUILITY, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Governor Walker says, "Is democracy a name and a shadow, or a substance? It means the power of the people. Or has it lost its true signification? Or are we moving from it with viewless, but rapid strides towards despotic power; to make and unmake the rules of political faith under pains and penalties abhorrent to the souls of freemen? Is this the eighty-second year of our independence? Or is it the first year of American monarchy, that is now dawning upon us?" which Gov. Wise of Virginia endorsed.

In the Senate, 12 Mar., 1856, Mr. Douglas, in discussing this question, asks, "whence Congress derives authority to organize temporary governments for the territories? A State is a sovereign power, limited only by the Constitution of the United States. There is no authority for putting a restriction upon the sovereignty of a new State which the Constitution has not placed upon the original States. The power to organize temporary governments is not granted in the power to dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States." This clause confers power only to provide for surveying the public lands, and exposing them to public and private sale, issuing patents, confirming titles, etc.; in short, for making rules and regulations for protecting and disposing of the public domain and other public property of the United States, which power extends to the lands and other property of the United States as well as in the Territories." Nor do Mr. Douglas' views end here. In the 33rd Congress, on the 15th February, in the Senate, the question was taken on a substitute bill, in which, among other things, it "declared the people free to regulate their domestic institutions in their own way, subject only to the constitution of the United States." The substitute was adopted, 35 to 10. Thus the various parties, with their several conflicting political creeds, all agreed on this one fact, and with a preponderating portion of 35 to 10 in that august assembly, that sovereignty was vested in the people; that their voice must be heard and their action had, that they were declared free to regulate their domestic institutions in their own way, and that their power was only limited by the constitution.

Having investigated the principle of popular rights, and the inherent, inalienable rights of man to have a voice in his own government, we find it as old as assemblies, communities and organizations of man: a principle acknowledged by various governments, a fundamental principle of the government of the United States; that it was interwoven into our constitution, sustained by presidents, governors, generals and statesmen, and endorsed by the Senate of the United States; that it lies at the foundation of all Democratic and Republican institutions; that senators, nor statesmen, nor generals, nor congress, nor presidents, nor judiciary have a right to interfere with this inherent, inalienable, God-given right; that it is as orthodox as Democracy or Republicanism, and as American as the Constitution of the United States.

If the above be true, then, and who can doubt it? what becomes of this intolerant, unauthorized interference with the people in the Territories? for we are only one among many. What of the ignoring of the people? What of the judicial clap-net now in our midst?

But to proceed, let us examine some of the arguments in opposition to this. I need not refer to the antiquated opinions of kings and monarchists, "that the people are not competent to govern themselves;" but would simply ask, who are? Are kings,

rulers, presidents and legislators people? or have they acquired some special divine right by bloodshed, robbery and plunder?

Mr. Collamer, of Vermont, in a minority report on Mr. Douglas' measures, says, "This has been done for sixty years under the power to dispose of and make all needful rules and regulations respecting the Territorial and other property of the United States;" which power as above demonstrated is no power, but a usurpation of the people's rights. But it has been done for sixty years. Does age sanctify a wrong? Why did we object to British rule? It was more than sixty years old. Would Mr. Collamer cling to British institutions because of their venerable age? or have we gone back to European, Asiatic, Egyptian or Mongolian rule because of their antiquity? An inherent right can never be made wrong.

Mr. Chase of Ohio, Senator Houston of Texas, and others contend against the rights of the people, because by the passage of an act of popular sovereignty the Missouri compromise would be broken. All I have to say of this is, that if unconstitutional compromises are made, wherein the liberties of the people are bartered away, the sooner they are broken the better, and that great instrument of trust be preserved inviolate. But I would ask here, what have geographical lines to do with the people's rights? Can constitutional guarantees, freedom and the rights of man be defined by any particular survey? Upon what principle does one man obtain the rights of citizenship and freedom on one side of a geographical line, and another man one mile or one thousand on the other be deprived of it, all living under the same government and guaranteed the same constitutional rights? If there would be any difference it ought to be in favor of the pioneer; the man who has the courage and energy to penetrate the desert, make roads, build bridges, erect mills, open mines, develop the resources of the country and expose himself to and triumph over obstacles that frighten the more timid; but these are the men who through false legislation are tabooed; these are evils that demand the serious attention of our statesmen. Mr. Douglas, in speaking on this subject, says, "I do not like, I never did like, the system of legislation on our part, by which a geographical line, in violation of the laws of nature and climate and soil and of the laws of God should be run to establish institutions for a people contrary to their wishes." An eminent political scientist has truly said, "If government is necessary for the government of the whole, every individual member ought to participate in the selection of its measures, as government is a contrivance for the security and protection of individuals, each individual should have a voice in providing for his own welfare and security. Or can he possess the uncontrolled exercise of private judgment?"

But, again, it has been stated that if Congress protects the people, they ought to have a right to govern them. What is meant by this? The objector can better tell than I can. Does Congress make the people, or do the people make Congress? I have always understood, as stated in the Constitution, that the Union was established "to insure domestic tranquility and provide for the common defense." What does that mean? The eastern, or western, or southern States; or the whole people, as stated "for the common defense?" Why Southerners used to protect their slaves.

"But Congress pays your Territorial expenses, and therefore has a right to govern you." Now this is extraordinary. I have always been of the opinion that the people paid those expenses. Who pay the expenses, equipment, pay and salaries of the army and navy of the United States? The people. Who pay the salaries and per diem of Congress? The people. Who pay the salaries and expenses of the judiciary and the President? The people. And this people are helping to pay to-day the expenses of these courts and the salaries of these officials who are sent here without our consent, and who attempt to oppress, rule over and destroy us. We might apply the same answer to the aforementioned protection. Why are we taxed to-day for paying the expenses of the war? Does protection mean somebody else besides us? And must we pay to protect them and leave ourselves out? Slaveholders protect and provide for their slaves. It has yet to be demonstrated that this is an argument for serfdom. But government does not protect us here. It is true it has had an army, not to protect, but to watch us. To treat us as enemies, to hold us in terror. And in years past, in our Indian difficulties, the army has been watching us in Camps Floyd and Douglas, while we, the people, have been fighting Indians in the south and other places. We have expended upwards of one million dollars in this warfare, which up to the present is unacknowledged and unrequited. Thus we have really done our own fighting and paid government for watching us. This is such protection as wolves give to lambs, and is one of the evils that arises out of a departure from constitutional obligations. Having commenced with us, the question very naturally arises, where will it end? Our present anomalous position may form a specious pretext for religious fanatics, political incendiaries and thieves to make their raids upon us. But calm, reflecting men can perceive that they are sowing dragons' teeth, the fruit of which will be living monsters and standing armies, to

overawe and trample under foot every good citizen; to tear in pieces the beautiful fabric we have raised; to dethrone justice, uproot liberty, trample on the people and the rights of man; to introduce anarchy, confusion and bloodshed, to chant the funeral requiem of liberty, and to send a wall of misery through the land. For if these principles of injustice and inhumanity can be practised with impunity upon us, as tyranny is always aggressive, it will not be long before the same rule, or misrule, will be applied to others; the sword once unsheathed will clamor for more victims; encroachment will tread on the heels of encroachment; each aggression enforced by the sanguinary power we have been making, the nation will be bound in chains of its own forging, until liberty, feeble, bleeding and strangled, by its professed supporters, lies a helpless, prostrate, mangled corpse, the taunt of tyrants and reproach of kings.

Having disposed of the above question, I now proceed to make further enquiries in regard to our own position. When we settled in these valleys it was Mexican Territory, and only came into the possession of the United States by conquest and the treaty of Guadalupe Hidalgo. Mr. Seward in the Senate, on the 11th of March, 1850, in contending for the admission of California as a State, in answer to objectors, says, "California comes unceremoniously, without a preliminary consent of Congress, and therefore by usurpation. This allegation I think is not quite true; at least not quite true, in spirit; California is here, not of her own pure volition." We tore California and New Mexico (and he might have added Utah) "violently from their places in the confederation of Mexican states, and stipulated by the treaty of Guadalupe Hidalgo, that the territories thus acquired should be admitted as States into the American union, as soon as possible." California applied as above specified and was admitted, Deseret applied, under the same stipulations, the same treaty obligations, and was denied. We asked for bread and they gave us a stone, an unauthorized, unconstitutional government, a relic of monarchy, a fungus on the body politic, an apple of discord, a territorial government which has been the prolific source of all difficulties in this country from that day until the present; for even in this our liberties are proscribed more than many others similarly situated. For instance, in the Territory of Oregon, the Governor possessed no veto power, it was prohibited. In Kansas and Nebraska, as Territories, the veto power of their governors could be controlled by a two-thirds vote. In Utah the veto power is absolute, and the whole community are thus disfranchised, liberty with them is like the apples of Sodom, pleasant to look at and talk about, but crumble into a noisome vapor at the touch. "But you accepted it." How could we help ourselves. Mexico had to submit to the terms of her big brother. The French provinces of Alsace and Lorraine had to submit to the terms of their Prussian conquerors, and we, having by the United States' conquest fallen into their hands, and having asked for a Republican form of government and been denied, had either to accept the Territorial encroachment, or be considered enemies of the United States. Such is the position that the departure from constitutional guarantees placed us in. California's claims were admitted, ours ignored; Kansas, Nebraska and Oregon preserved some rights, we have none.

The objector to democracy will say, "Did I not tell you that a democratic or republican form of government, was not adapted to a large people, and do not your statements furnish a proof of this?" No. These are abuses, encroachments upon the rights of the people, and want correcting. Congress, in giving Territorial forms of government, assumes monarchical powers. A Territory is not a republican form of government; but monarchical, and therefore is a departure from republicanism. No system ought to be blamed for its perversion; let true republicanism be carried out, in good faith, and it is adapted to a nation, an empire, or the world.

Were I an apologist for Congress I would say, that owing to the heated controversies and fierce disputes that have been engendered in the discussion of slavery, and other national questions, in trying to compromise, fundamental principles have sometimes been sacrificed. Such was the nature of the Missouri compromise; which was disrupted and broken down when the constitutional rule was applied. Such also are Territorial governments, which crumble under the touchstone of truth, and will not bear the test of republican ethics or democratic criticism.

It is generally supposed that no wrong was intended; and that although Territories have not a republican form of government, and are deprived of many rights enjoyed by the States, that as they soon emerge into States, the difficulty is only short lived, and that as the United States officers are all republicans, they would not be likely to do much wrong. This is all very well in theory; the practice is very different. To begin with, there is really no excuse for Congress violating the constitution. If that instrument is binding upon the people, it is also on Congress. In regard to government appointees, the reverse is the fact to the views above given; government appointees are not like Caesar's wife, "above suspicion." Were we governed by good, honorable men, although in

violation of republican principles, it would not make much difference; when we are not, it gives them power to oppress us, and subjects us to the same difficulties that the declainers of Independence complained of. Again is time no object, is the life-time of men of no importance? We have thousands of men in our Territory to day who were from seventeen to twenty when they came here, who are now upwards of forty years of age, who have never known anything about a republican form of government, only by hearing or reading of it, what recompense is offered them for the surrender of their liberties for a life time to strangers? That our officers are not above reproach is evident from the position of the present importation. Not one person in this Territory had a voice in their coming here, and not one in a thousand would vote for their continuance. This is not Republican or Democratic. None of the boasted vox populi about this. We would not wish to be governed by Chinese, Arabs, Hottentots or Indians, we object just as much to reckless, disqualified or corrupt appointees of government.

Having said so much on this subject, let me now address a few words to the Saints.

You made the roads, killed the snakes, built the bridges, redeemed this sterile desert country and made it "blossom as the rose." And where the poor Digger Indians shivered and the wolf prowled, now exist productive farms, pleasant orchards, beautiful gardens, and you exhibit an example of thrift, industry, virtue, honesty and integrity that others would do well to imitate. Your factories, your railroads, your cities and villages, erected and redeemed by your industry from a howling wilderness, are now oases on the desert; while your social enjoyments, your theatres, your ball rooms, your social parties, your excellent music, your jubilant songs and your shouts of hosannah make it an Eden to the pure and virtuous. But these very beauties and excellencies are your danger. Corrupt men look upon your possessions with greedy eyes, and like vultures, are ready to pounce upon their prey. They want your houses and lands, your orchards, gardens and farms, your mills, factories and mines; and these parties profess to be shocked at your lasciviousness and would rob you by the grace of God. The lamb is drinking below, the wolf is fouling the water above. The big boy is strutting about with a chip on his shoulder daring you to knock it off. Some pretext is needed. Don't give it to them. They want a pretext to plunder you; their programme is to pillage, rob, ravage, lay waste and destroy. They want your farms, and although very virtuous, would like to ravish your wives and daughters. Don't give them an opportunity. Let the same wisdom that has governed your acts hitherto still be continued. They want a cause of quarrel that they may rob and pillage according to law. Don't give it to them. They would like to provoke riot, bloodshed, sedition and revolt, that they may have a pretext to destroy you. Don't work into their hands. Let them pack juries fresh from houses of ill fame to try you on virtue. Never mind; it is their virtue that suffers, not yours. Let them try you for living with and protecting your wives and providing for your children; fidelity and virtue are not crimes in the eyes of the Almighty, only in theirs. Rotten and corrupt themselves, this clique would like to reduce you to their level. Their aim is to strangle virtue, purity and sobriety, and introduce gambling-hells, drunkenness, and dens of prostitution, infamy and vice. No matter, still be quiet. "But they are accusing some of our best and most honorable men of murder!" What of that? Who have they suborned as their accusers? They themselves call them by the mild name of assassins, these are their fellow pirates, with whom they hob-nob and associate. Be quiet! "But other aggressions are contemplated; they are bent on provoking a quarrel and mischief." No matter, it takes two to make a quarrel, don't you be one of them. "They offer themselves to be kicked." Don't do it, have some respect for your boots. "But they insult us on every hand." What! they insult you? Nature has provided for many animals and insects a certain species of aggression and defense. Some snakes crush their victims in their folds; others carry poison in their teeth; the wasp and scorpion sting you; the ant poisons with its bite; the vampire sucks your blood, while the pole-cat protects itself by its insufferable odor.

"Their power to hurt each little creature feels" Bulls use their horns and asses use their heels.

Now, who would consider himself insulted by the hissing of a snake, the attack of a wasp, or the odor of a skunk? You would simply avoid them; it is not in their power to insult you. The mules in the stable below may bray in response to the clamor above; let them manage the exhibition in the menagerie in their own way in that delectable stable; still let them alone. But don't let us be dull and dumpy and careless; watch every point, note every action, keep a record of every event; exhibit every falsehood, expose every wrong, watch and avoid them as you would the leprosy; be vigilant in everything and everywhere; watch their morality and their manipulation of mines; follow them to their secret dens; keep a true record of all their acts, and the time is approaching when their stench will sicken the nation; they and their paramours may be protected for a