

# DESERET NEWS.

## WEEKLY.

TRUTH AND LIBERTY.

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### CONGRESS AND THE TERRITORIES.

A SYNOPSIS of the argument of Judge Black before the Judiciary committee of the House of Representatives, in relation to the special legislation against Utah appears in the *New York World*. Of course it is far from complete, but it gives some idea of the gist of the argument and shows that it is thoroughly democratic.

That the right of self-government inheres with the people, is a proposition that no believer in the principles that enter into the body of the Constitution of the United States will attempt to dispute. But there seems to be an impression upon many minds that there is some essential difference between the rights of the people in an organized State and those of the people when on the public domain outside of the States. From this has sprung the notion that Congress has absolute power over the latter. We regard it, and have always regarded it, as a political heresy, and it is clear that the eminent jurist whose remarks we publish views it in a similar light.

The *Cincinnati Times-Star* thinks that Judge Black will "hardly be able to carry his point," and says: "It is understood that the authority of Congress over Utah is as complete and absolute as its jurisdiction in the District of Columbia." Yes, it is so understood, because that complete and absolute power has been exercised without resistance. It is admitted that Congress derives all its authority from the Constitution. And yet that instrument conveys no such jurisdiction as that which in this instance has been claimed by the legislative department. On the contrary the exclusive jurisdiction of Congress is limited to a district of country not exceeding ten miles square, with the exception of places belonging to the government, such as arsenals and military forts. Judge Black may not be able to carry his point, for truth and justice are often thrust aside, and it has become the fashion to ignore the Constitution when some measure of party policy comes in contact with it, and not unfrequently to argue that the palladium of popular rights is behind the times, and to be opposed when necessary to the accomplishment of some thing claimed to be requisite for the good of the country.

But they who frame the law should keep the law, and the instrument which limits the powers of Congress, as stated above, is the supreme law of the land, binding upon Congress, the States and the people alike, so far as it applies to either of them. Judge Black has that supreme law on his side in the discussion of these questions, and nothing but sophistry and expediency can be brought in opposition to his reasoning. And it will become quite a question in the minds of rational people opposed to the "Mormons" whether it is worth while to trample upon the country's guide and standard, to permit the exercise of powers for which there is no legitimate authority, to wink at gross usurpation by the law-making department, for the sake of stamping out an unpopular religious system, or even suppressing a practice which the multitude consider improper and unchaste.

There is another question relating to this subject that is worth considering. Supposing that Congress had the right to pass the Organic Act by which the anomalous thing called a Territorial Government was established in Utah, was not the power given to the Legislature of the Territory over "all rightful subjects of legislation?" And if so, can Congress rightfully interfere therewith by passing laws on local matters which it has en-

dowed the local law-making department with the right to regulate? The only restrictions placed on the Territorial Legislature are, not to pass laws interfering with the primary disposition of the soil, imposing taxes on the property of the United States, and taxing the property of non-residents higher than that of residents. The right of the Territory to manage its own domestic affairs is here recognized, and there is no reservation that Congress shall exercise or retain power over any of the "rightful subjects of legislation" with which the Territory is endowed; or, to put the matter in its proper light, the right to regulate which is by the Organic Act formally recognized. Congress simply claims the right of sanctioning or disapproving such laws as the local legislature may enact, if in conflict with the Constitution of the United States or the Organic law of the Territory.

Those who argue for the absolute powers of Congress over the Territories, point to the clause in the Constitution which gives that body authority to "dispose of and make all needful rules and regulations respecting the territory or other property of the United States." The fallacy of making this apply to the people whose inherent right of local self-government is secured by the Constitution, has been frequently pointed out. But we will direct attention to one point further. The Legislature of Utah, under the Organic Act, is restricted from passing laws "taxing the property of the United States." Now, if the people of Utah are part of the property of the United States respecting which Congress may make all needful rules and regulations, then the Territorial Legislature has no right to make any revenue laws at all. It cannot tax the people because they are the "property" of the United States. This would be an absurdity; but it is the rational outcome of the argument claiming the exclusive jurisdiction of Congress from the clause we have quoted. That the "territory or other property" referred to in the Constitution means land and other material possessions of the United States, about which it may make rules and regulations in the States as well as elsewhere, must be evident to every one who wishes to understand and does not desire to mystify and pervert. And it was in the exercise of this power that Congress stipulated, when recognizing the powers of the Utah Legislature over all rightful subjects of legislation, that the property of the United States should not be taxed, but attempted no interference with the authority of the Legislature in matters affecting the people or any of the local interests of the Territory.

The argument of Judge Black, when it comes before the country in full, will awaken new thoughts and cause careful consideration of the important questions presented, and we have no doubt that a very large proportion of the reflecting will come to the same conclusion as the *Brooklyn Daily Times*, which declares that the reasonings of Judge Black are "freighted with good sense," and remarks further as follows:

"Severity on the part of the government has only succeeded in producing rancor and hatred. It has had a full trial. The Mormons have been oppressed enough. Now let mercy temper the dealings of Gentiles with the 'peculiar people' and the result will be more satisfactory. The Mormons are a quiet, thrifty, industrious people and if let alone, can be made a useful portion of the population. To grant them the same privileges of jury trial and self-government that are accorded to the residents of every other section of this country, is a solemn duty that Congress can not lightly set aside. The only thing that the central government should seek to get rid of is the practice of polygamy, which is condemned and punished by the laws of every State in the Union and ought to be in Utah."

### THE SLAVISH TERRITORIAL SYSTEM.

THE masterly argument of Judge Black, which we published in full last evening, goes right to the root of the territorial question. It makes plain to the ordinary mind, as well as to the legal or literary intellect, that the extraordinary and autocratic powers exercised by the general

Government over the Territories are assumed and unlawful, because entirely unauthorized by the instrument from which the Government in all its departments derives its authority. Outside of the Constitution neither Congress, the national Executive, or the supreme Judiciary have any powers whatever. And the extreme jurisdiction claimed over those political organizations entitled territories, cannot be found in that document, either in direct language or by fair implication. Indeed the practice, which has grown out of unwarranted assumption is in conflict with the Constitution, and a direct violation of principles enunciated therein.

In studying the course which has been taken with Utah, one would be led to think that the object of the national Government was to restrict liberty and prevent the free exercise of those inalienable rights enumerated in the Declaration of Independence, while the true end of the Federal organization was to secure and perpetuate them.

We are pleased to see that the eminent jurist, in his plea for the liberties of the people dwelling on the public domain outside of the boundaries of sovereign States, advocates the very principles in relation to their political rights for which we have contended for years. His support is good evidence that our views on these points are accurate. And he presents them in such a manner as to demonstrate their truth and leave no room for doubt as to their correctness.

Those who do not like the conclusions so logically wrought out by the able lawyer, may abuse him but they cannot refute his reasonings. The question is not what ought to be, but what is. Anti-"Mormon" and anti-polygamy fanatics may claim that the Government ought to have power to suppress the religious or social system prevailing in this Territory, but that is not the point. Such power does not exist within the limits of the Constitution, and no matter what may be considered expedient under the circumstances, it is evident that its exercise is unlawful and therefore improper.

No one who understands the genius of the system of government in this country will dispute the proposition, that any State of the Union could under the Constitution institute plural marriage as a lawful domestic relation, no matter what the General Government might think or say about it. If the majority of the people of a State chose to have it so, neither Congress nor any other branch of the national Government could interfere. For what reason? Because no power is given for any such purpose in the Constitution, and that which is not given therein is reserved. To whom? Why to the respective States or to the people. If the people are organized into a State government the powers of local regulation belong to the State; if they are not so organized those powers belong to the people as inherent rights, and Congress can rightfully exercise over them no authority except that which is specified in the instrument from which alone that body derives all its prerogatives.

The "territory or other property" of the Government is under the control of Congress. But even the territory or land on which the people of Utah live is not now the property of the United States. They have bought and paid for it. It is their own. They are of right free people dwelling on free soil. Under the Declaration of Independence and the national Constitution they have the right of local self-government, the right to regulate their own domestic affairs, so long as they do not infringe upon the rights of others, so as to violate that sacred instrument which was designed to protect THE PEOPLE, and secure them in their rights and privileges as citizens from the exercise of arbitrary power and the encroachments of Federal rule.

Congress may prescribe such rules and regulations as may be needful to dispose of that part of the public domain still vested in the United States, but its claim of power to govern the people, either on land purchased of it or soil still within its possession without their consent, to impose officials upon them whom they have not elected, to make local laws to restrict them in the exercise of their natural rights or political privileges, is unwarranted by the supreme law of the land and as clearly shown by Judge Black, is nothing but usurpation. Congress may admit new States into the Union, so says the Constitution. But

those States must be organized before they can be admitted. This presupposes the right of the people not under State governments to organize themselves into commonwealths, and that by mutual agreement, that is by a compact with the Federal Government, in which each State is a party as well as that Government, that may be admitted into the Union on an equal footing with the rest of the States.

The view entertained as to the absolute powers of Congress over the Territories, presupposes that citizens of the United States outside of State organizations have no rights whatever. They are not a part of THE PEOPLE. They are subject slaves, and the Government is, over them, an autocracy more absolute and despotic than any monarchy or empire on the globe. The idea springs from a gross error. It has no foundation in the system of government established by the fathers of our country. It is the antipodes of that doctrine of liberty which enters into the fabric of American institutions. It ought to be discarded from the minds of its mistaken advocates. It is in utter discord with the music of American freedom and completely subversive of equal rights and popular government. If Judge Black but succeeds in starting a movement for the ultimate abolition of the anomalous and anti-republican territorial system, even if he does not bring any immediate relief to Utah, he will deserve the plaudits of his countrymen and his name will be inscribed with undying honor in the temple of human liberty.

### LOCAL AND OTHER MATTERS.

FROM THURSDAY'S DAILY, FEB. 15.

**Artesian Well Boring.**—The City—under the personal attention of Mayor Jennings—is continuing the work on the Artesian well. It has now reached a depth of upwards of eight hundred feet, having passed through several streams of water, but not having yet obtained sufficient to make a "flowing well." An artesian well is being sunk at the Mingo Smelter, near Sandy, and is over one thousand feet deep, with the same result.

**Accidentally Killed.**—At Provo, at 12:30 o'clock yesterday, a grandson of Bishop Johnson, of Provo, aged 14 years, while walking near the railroad track fell in a fit between the cars and was run over and fearfully mangled, both legs and one hip being broken. Dr. Pike was immediately called but could do nothing. The boy died at 4:20 p. m. The Denver & Rio Grande men were in no way to blame for the accident.

**The Storm.**—The storm of last evening was very general, extending from Ogden to Milford, the snow falling to the depth of about four inches, and although light, and blown about by the wind considerably, did not drift enough to interfere with local railroads. The storm came from the west, after having given California a sufficiency of the "beautiful," and snowed up the trains on the Central Pacific Railroad. The east-bound train due at Ogden this morning did not arrive, but may get through to-day; consequently no mail from the West this noon.

**The Gerson-Jewett Assault.**—The preliminary examination of Henry Gerson, charged with committing an assault with intent to do bodily harm upon William Jewett, was concluded yesterday afternoon before Justice Spiers, resulting in the accused being held to answer to the grand jury in \$200 bonds. The alleged offense was committed some weeks since, but proceedings were delayed on account of the prosecuting witness being unable to appear, he having been disabled by his injuries. He was struck over the head by Gerson with a hoe, at the Germania works, and for a time it appeared doubtful whether he could recover. His statement, soon after the assault, was taken in writing, and sworn to. Luckily, however, he has survived.

**Train Wrecked.**—Other roads have their accidents, and it is becoming quite fashionable for every line to have trains derailed or collisions occur. Not to be outdone by any road, long or short, the Utah Eastern comes in for a share of the glory in wreck, etc. Thursday morning, while going to Coalville, an engine and seven cars found a temporary resting place on the side

of the track at the mouth of Silver Creek Canyon. The cause of the accident was a rail which was broken in seven pieces. Four cars were badly wrecked but the engine and three cars were not injured by the accident, and no one was hurt. This is the first accident that has happened on this road, and when it gets accustomed to these peculiar freaks there will perhaps be more people injured than at the accident on Thursday.—*Park Record*.

**Provo Exchange Building.**—Last Friday evening the above named building was dedicated, prior to being occupied as the Provo Co-op. Clothing Department. The stockholders have labored steadily for nearly a year, and at last have completed one of the finest buildings of the kind in the city. It being situated on the corner of the Exchange block, it presents an attractive appearance and will materially enhance the beauty of the street.

The ceremonies, though informal, were of a satisfactory nature. Pres. A. O. Smoot offered the dedicatory prayer, after which a substantial lunch was spread on the counters and all partook heartily of the "first dividend." Toasts and congratulatory speeches were frequent to enliven the occasion.

This company was organized Feb. 22, 1882, and notwithstanding the disaster of fire and other obstacles, it has steadily progressed, and its improvements are a credit to the town. It is the intention, as expressed by the stockholders present, to still continue building until the whole block is built up permanently; and if the future may be judged by the past such will be the case. Success to that and all other like unions of effort.—*Territorial Enquirer*.

**Bunkerville.**—L. O. Crosby, of Bunkerville, Lincoln County, Nevada, wrote under date of February 6th:

"Our people have had a very sickly time with the measles, followed by pneumonia, which has caused the death of two small children—one the daughter of George B. and Melvina Syphus Whitney, the other was the son of Edward Bunker, Jr., and Arminta McClellan Bunker. Both the deceased were infants. We were also called to mourn the loss of Lydia Vilenia Earl, daughter of Sylvester H. and Lois C. Earl, born September 18th, 1856, died January 14th, 1883, cause of death, congestive chills."

Our brethren are sowing grain and preparing the earth for summer crops.

This morning mother earth was covered with snow about an inch deep, the first of the winter, but it was all gone in about two hours. This has been the coldest winter we ever experienced in this country.

Our wheat fields have been green all winter but were damaged some by the cold and winds. We have had no cause of complaint from the officers of Lincoln County, Nevada. They have treated us the same as all other citizens and that is all we ask. The health of the people has much improved of late. Quite a number of our people have bought ranches on the Muddy, and I think that the "Mormons" will own that whole country before long. Times are dull and money scarce, but we manage to live and hope to continue in the Gospel.

**The Social Event of the Season.**—The Calico Ball at the Theatre last evening under the auspices of the Unity Club was a grand affair. In spite of the terrible storm that set in just before the time to get ready for the ball, an immense company assembled and enjoyed the party. The Theatre was splendidly decorated for the occasion, and when the music started up and the gaily dressed people commenced to move to its inspiring strains, the scene, under the mellow illumination of the lamps and chandeliers, was beautiful and imposing. Everybody was good natured and bent on having a good time, so crowding a little was not provocative of any ill-feeling. It was really a magnificent affair, and the encomiums upon the managers are general and cordial. The supper was in keeping with the dance. It was elegant, varied and ample, and was served in superb style. The music, the calling, the arrangement of the floor, the accommodations for spectators, everything was commendable, and the Deseret Hospital will receive substantial benefit from the ball of the season.

The juvenile ball to-day, also under the management of the Unity Club, was of a similar character, and