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HISTORY OF JOSEPH SMITH.

FEBRUARY, 1843.

Feb.—Saturday 25. This morning br Samuel C. Brown made me a present of a gold watch.

Spent the forenoon in the City Council. The Council passed "An ordinance in relation to interments," "An ordinance in relation to the duties of city attorney," and "An ordinance concerning a market on Main street." Stephen Markham resigned his office as an alderman, and Wilson Law was elected to fill his place.

At 3 o'clock the Council assembled, after an adjournment for dinner; the subject of a sound currency for the city having previously arisen, I addressed the Council at considerable length, giving amongst others, the following hints:

"Situated as we are, with a flood of immigration constantly pouring in upon us, I consider that it is not only prudential, but absolutely necessary, to protect the inhabitants of this city, from being imposed upon by a spurious currency. Many of our eastern and old country friends are altogether unacquainted with the situation of the banks in this region of country, and as they generally bring specie with them, they are in danger of being gulled perpetually by speculators. Besides, there is so much uncertainty in the solvency of the best of banks, that I think it much safer to go upon the hard money system altogether. I have examined the consitution upon this subject, and find my doubts removed. The constitution is not a law, but it empowers the people to make laws: for instance, the constitution governs the land of Iowa, but it is not a law for the people. The constitution tells us what shall not be a lawful tender. The 10th section declares that nothing else except gold and silver shall be lawful tender; this is not saying that gold and silver shall be lawful tender; it only provides that the States may make a law to make gold and silver lawful tender. I know of no State in the Union that has passed such a law, and I am sure that Illinois has not. The legislature has ceded up to us the privilege of enacting such laws as are not inconsistent with the Constitution of the United States and the State of Illinois; and we stand in the same relation to the State, as the State does to the Union. The clause referred to in the Constitution is for the legislature, it is not a law for the people. The different States and even Congress itself have passed many laws diametrically contrary to the Constitution of the United States.

The State of Illinois has passed a stay law making property a lawful tender for the payment of debts, and if we have no law on the subject, we must be governed by them. Shall we be such fools as to be governed by their laws which are unconstitutional? No! we will make a law for gold and silver, and then their law ceases and we can collect our debts. Powers not delegated to the States, or reserved from the States are constitutional. The Constitution acknowledges that the people have all power not reserved to itself. I am a lawyer, I am a big lawyer, and comprehend heaven, earth, and hell, to bring forth knowledge that shall cover up all lawyers, doctors, and other big bodies. This is the doctrine of the Constitution, so help me God. The Constitution is not law to us, but it makes provision for us whereby we can make laws. Where it provides that no one shall be hindered from worshipping God according to his own conscience, is a law.—No legislature can enact a law to prohibit it. The Constitution provides to regulate bodies of men, and not individuals."

Alderman Wells and councilor O. Pratt objected to the ordinance regulating the currency from taking immediate effect. O. Spencer and B. Young spoke in favor of the bill. I invited W. W. Phelps and Dr. W. Richards, who were present, to give their opinion on the bill. They both spoke in favor of a gold and silver currency, and that it take immediate effect in the city.

The bill was postponed until next Council.

Sunday 26. At home all day. My mother was sick with an inflammation of the lungs, and I nursed her with my own hands.

Monday 27. I nursed my mother most of the day, who continued very sick. I issued a search warrant for br. Dixon to search Fidler's and John Eagle's houses for a box of stolen shoes.

Tuesday 28. Mostly with my mother and family. Mr. John Brassfield with whom I became acquainted in Missouri, called on me, and spent the day and night. In the afternoon mother was somewhat easier; and at 4 o'clock I went to elder O. Hyde's to dinner.

I saw a notice in the Chicago Express, that one Hiram Redding had seen the sign of the Son of Man, &c., and I wrote to the Editor of the Times and Seasons, as follows:

"Sir—Among the many signs of the times, and other strange things, which are continually agitating the minds of men, I notice a small speculation in the Chicago Express, upon the certificate of one Hiram Redding, of Ogle county, Ill., stating that he has seen the sign of the Son of Man as foretold in the 24th of Matthew.

The slanderous allusion of a 'seraglio,' like the Grank Turk, which the editor applies to me, he may take to himself, for 'out of the abundance of the heart the mouth speaketh.' Every honest man who has visited the city of Nauvoo, since it existed, can bear record of better things, and place me in the front ranks of those who are known to do good for the sake of goodness, and show all liars, hypocrites, and abominable creatures, that while vice sinks them down to darkness and wo, virtue exalts me and the saints to light and immortality.

The editor, as well as some others, "thinks that Jo Smith has his match at last," because Mr. Redding certifies that he has seen the sign of the Son of Man. But I shall use my right, and declare, that notwithstanding Mr. Redding may have seen a wonderful appearance in the clouds, one morning about sunrise, (which is nothing very uncommon in the winter season) he has not seen the sign of the Son of Man, as foretold by Jesus; neither has any man, nor will any man, till after the sun shall have been darkened, and the moon bathed in blood; for the Lord hath not shown me any such sign, and as the prophet saith, so it must be: *'surely the Lord God will do nothing, but he revealeth his secret unto his servants the prophets.'* (See Amos iii, 7.) Therefore, hear this, O earth, the Lord will not come to reign over the righteous, in this world, in 1843, nor until every thing for the bridegroom is ready.

Yours respectfully,

JOSEPH SMITH."

Wednesday, March 1st. This morning I read and recited in German; went to my office, and reviewed my valedictory letter in the Times and Seasons, No. 7, vol. 4; after which, I went with Marshal H. G. Sherwood, to procure some provisions for Thomas Morgan and Robert Taylor, who, on petition of the inhabitants of the city, I had directed should work out their punishment on the highways of Nauvoo.

Elder O. Hyde called on me this afternoon to borrow a horse; I instructed my ostler to put the lieutenant general's saddle on my horse "Jo Duncan," and let Elder Hyde ride the Governor on the lieutenant general's saddle.

Signed a power of attorney, dated Feb. 28, to Amasa Lyman, to sell all the lands in Henderson county, deeded to me by Mr. McQueen.

The Mississippi froze up on the 19th of Nov. last, and still continues so; wagons and teams constantly pass over on the ice to Montrose.

I am constantly receiving applications from abroad for elders, which were replied to, in the Times and Seasons of this day, that the conference on the 6th of April next, will attend to as many of them as possible.

The Council of the Twelve Apostles wrote to Ramus, Lima, Augusta, and other branches as follows:—

"The Twelve, to the Church of Jesus Christ of Latter Day Saints in and about Ramus, greeting:—

Beloved brethren—As our beloved President Joseph Smith, is now relieved from his bondage, and his business temporarily, and his property too; he has but one thing to hinder his devoting his time to the spiritual interests of the church; to the bringing forth of the revelations, translation, and history. And what is that? He has not provision for himself and family, and is obliged to spend his time in providing therefor. His family is large, and his company great, and it requires much to furnish his table: and now brethren, we call on you for *immediate relief in this matter*, and we invite you to bring our President as many loads of *wheat, corn, beef, pork, lard, tallow, eggs, poultry, venison*, and everything eatable at your command, (not excepting unfrozen potatoes and vegetables as soon as the frost will admit) *flour &c.*, and thus give him the privilege of attending to *your spiritual interest*.

The measure you mete, shall be measured to you again—if you give liberally to your President, in temporal things, God will return to you liberally in spiritual and temporal things too—*One or two good new milch cows are much needed also*.

Brethren, will you do your work, and let the President do his, for you, before God? We wish an immediate answer by loaded teams, or letter.

Your brethren in Christ, in behalf of the Quorum, B. YOUNG, President."

W. RICHARDS Clerk.

P. S. Brethren, we are not unmindful of the favors our President has received from you in former days, but a man will not cease to be hungry this year, because he ate last year.

W. R. B. Y."

Some thirty inhabitants of Saratoga, N. Y. have died recently of a disease called the black tongue.

About this time a slide from mount Ida near Troy, N. Y., took place, burying ten houses, and killing thirty or forty persons.

THE KANSAS QUESTION.

THIRTY-FOURTH CONGRESS—FIRST SESSION—SENATE.

WASHINGTON, March 12, 1856.

Mr. Douglas, of Ill., from the Committee on Territories, made a report on Kansas matters, and proceeded to read it as follows:—[N. Y. Herald, March 13.

The Committee on Territories, to whom was referred so much of the annual message of the President of the United States as relates to territorial affairs, together with his special message of the 24th day of January, 1856, in regard to Kansas Territory, and his message of the 18th of February in compliance with a resolution of the Senate of the 4th of February, 1856, requesting transcripts of certain papers relative to the affairs of the Territory of Kansas, having given the same that serious and mature deliberation which the importance of the subject demands, beg leave to submit the following report:

Your committee deem this an appropriate occasion to state briefly but distinctly the principles upon which new States may be admitted and Territories organized under the authority of the constitution of the United States.

The constitution (section 3, article 4) provides that "new States may be admitted by the Congress into this Union."

Section 8, article 1:

"Congress shall have power 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 officer thereof."

10th amendment:—

"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."

A State of the federal Union is a sovereign power, limited only by the constitution of the United States. The limitations which that instrument has imposed are few, specific and uniform, applicable alike to all the States, old and new. There is no authority for putting a restriction upon the sovereignty of a new State which the constitution has not placed on the original States. Indeed, if such a restriction could be imposed on any State, it would instantly cease to be a State within the meaning of the federal constitution, and in consequence of the inequality would assimilate to the condition of a province or dependency. Hence, equality among all the States of the Union is a fundamental principle in our federative system—a principle embodied in the constitution as the basis upon which the American Union rests.

African slavery existed in all the colonies, under the sanction of the British government, prior to the Declaration of independence. When the constitution of the United States was adopted it became the supreme law and bond of union between twelve slaveholding States and one non-slaveholding State. Each State reserved the right to decide the question of slavery for itself—to continue it as a domestic institution so long as it pleased, and to abolish it when it chose. In pursuance of this reserved right, six of the original slaveholding States have since abolished and prohibited slavery within their limits, respectively, without consulting Congress or their sister States, while the other six have retained and sustained it as a domestic institution, which in their opinion had become so firmly engrafted on their social system that the relation between the master and slave could not be dissolved with safety to either. In the meantime, eighteen new States have been admitted into the Union, in obedience to the federal constitution, on an equal footing with the original States, including of course the right of each to decide the question, for itself. In deciding this question it has so happened that nine of these new States have abolished and prohibited slavery, while the other nine have retained and regulated it. That these new States had at the time of their admission, and still retain, an equal right under the federal constitution with the original States, to decide all questions of domestic policy for themselves, including that of African slavery, ought not to be seriously questioned, and certainly cannot be successfully controverted.

They are all subject to the same supreme law, which, by the consent of each, constitutes the only limitation upon their sovereign authority.

Since we find the right to admit new States enumerated among the powers expressly delegated in the constitution, the question arises, whence does Congress derive authority to organize temporary governments for the Territories, preparatory to their admission into the Union on an equal footing with the original States? Your committee are not prepared to adopt the reasoning which deduces the power from that other clause of the constitution, which says:—

"Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

The language of this clause is much more appropriate when applied to property than to persons. It would seem to have been employed for the purpose of conferring upon Congress the power of disposing of the public lands and other property belonging to the United States, and to make all needful rules and regulations for that purpose, rather than to govern the people who might purchase these lands from the United States and become residents thereon. The word "territory" was an appropriate expression to designate the large area of public lands of which the United States had become the owner by virtue of the revolution and the cession by several States. The additional words, "or other property belonging to the United States," clearly show that the term "territory" was used in its ordinary geographical sense, to designate the public domain, and not as descriptive of the whole body of the people, constituting a distinct political community, who have no representation in Congress, and consequently, no voice in making the laws upon which all their rights and liberties would depend, if it were conceded that Congress had the general and unlimited power to make all "needful rules and regulations concerning" their internal affairs and domestic concerns. It is under this clause of the constitution, and from this alone, that Congress derives authority to provide for the surveys of public lands, for securing pre-emption rights to the actual settlers, for the establishment of land offices in the several States and Territories for exposing the lands to private and public sale, for issuing patents and confirming titles, and, in short, for making all needful rules and regulations for protecting and disposing of the public domain and other property belonging to the United States.

These needful rules and regulations may be embraced, and usually are formed, in general laws, applicable alike to States and Territories, wherever the United States may be the owner of the lands or other property to be regulated or disposed of. It can make no difference, under this clause of the constitution, whether the "territory or other property belonging to the United States" shall be situated in Ohio or Kansas, in Alabama or Minnesota, in California or Oregon, the power of Congress to make needful rules and regulations is the same in the States and Territories, to the extent that the title is vested in the United States. Inasmuch as the right or legislation in such cases rests exclusively upon the fact of ownership, it is obvious it can extend only to such tracts of land to which the United States possess the title, and must cease in respect to each tract the instant it becomes private property by purchase from the United States. It will scarcely be contended that Congress possesses the power to legislate for the people of those States, in which the public lands may be located, in respect to their internal affairs and domestic concerns, merely because the United States may be so fortunate as to own a portion of "the territory or other property" within the limits of those States. Yet it should be borne in mind that this clause of the constitution confers upon Congress the same power to make needful rules and regulations in the States as it does in the Territories, concerning the territory or other property belonging to the United States. In view of these considerations, your committee are not prepared to affirm that Congress derives authority to institute governments for the people of the Territories from the clause of the constitution which confers the right to make needful rules and regulations concerning the territory or other property belonging to the United States. Much less can we deduce the power from any supposed necessity arising outside of the constitution, and not provided for in that instrument. The federal government is one of delegated and limited powers, clothed with no rightful authority which does not result directly and necessarily from the constitution.—Necessity, when experience shall have clearly demonstrated its existence, may furnish satisfactory reasons for enlarging the authority of the federal government, by amendments to the constitution in the mode prescribed in that instrument, but cannot afford the slightest excuse for the assumption of powers not delegated, and which, by the tenth amendment, are expressly "reserved to the State respectively, or to the people." Hence, before the power can be safely exercised, the right of Congress to organize Territories by instituting temporary governments must be traced directly to some provision of the constitution, conferring the authority in express terms, or as a means necessary and proper to carry into effect some one or more of the powers which are specifically delegated. Is not the organization of a Territory eminently necessary and proper as a means of enabling the people thereof to form and mold their local and domestic institutions, and establish a State government under the authority of the constitution, preparatory to their admission into the Union?

If so, the right of Congress to pass the organic act for the temporary government is clearly included in the provision which authorizes the admission of new States. This power, however, being an incident to an express grant, and resulting from it by necessary implication as an appropriate means for carrying it into effect, must be exercised in harmony with the nature and objects of the grant from which it is deduced. The organic act of the Territory, deriving its validity from the power of Congress to admit new States, must contain no provision or restriction which would destroy or impair the equality of the proposed State with the original States, or impose any limitation upon its sovereignty which the constitution has not placed on all the States. So far as the organization of a Territory may be necessary and proper as a means of carrying into effect the provision of the constitution for the admission of new States, and when exercised with reference only to that end, the power of Congress is clear and explicit; but beyond that point the authority cannot extend, for the reason that all "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." In other words, the organic act of the Territory, conforming to the spirit of the grant from which it receives its validity, must leave the people entirely free to form and regulate their domestic institutions and internal concerns in their own way, subject only to the constitution of the United States, to the end that when they attain the requisite population and establish a State government in conformity to the federal constitution, they may be admitted into the Union on an equal footing with the original States in all respects whatsoever.

The act of Congress for the organization of the Territories of Kansas and Nebraska was designed to conform to the spirit and letter of the federal constitution, by preserving and maintaing the fundamental principles of equality among all the States of the Union, notwithstanding the restriction contained in the eighth section of the act of the 6th of March, 1820, (preparatory to the admission of Missouri into the Union) which assumed to deny to the people forever the right to settle the question of slavery for themselves, provided they should make their homes and organize States north of thirty-six degrees and thirty minutes north latitude. Conforming to the cardinal principles of State equality and self-government, in obedience to the constitution, the Kansas-Nebraska act declared, in the precise language of the compromise measures of 1850, that "when admitted as a State, the said Territory, or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission." Again, after declaring the said eighth section of the Missouri act (sometimes called the Missouri Compromise or Missouri restriction) inoperative and void, as being repugnant to these principles, the purpose of Congress in passing the act is declared in these words:

"It being the true intent and meaning of this act not to legislate slavery into any State or Territory, nor to exclude it therefrom; but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the constitution of the United States."

The passage of the Kansas-Nebraska act was strenuously resisted by all persons who thought it a less evil to deprive the people of new States and Territories of the right of State equality and self-government under the constitution, than to allow them to decide the slavery question for themselves, as every State of the Union had done, and must retain the undeniable right to do, so long as the constitution of the United States shall be maintained as the supreme law of the land. Finding opposition to the principles of the act unavailing in the halls of Congress and under the forms of the constitution, combinations were immediately entered into in some portions of the Union to control the political destinies, and form and regulate the domestic institutions of those Territories and future States through the machinery of Emigrant Aid Societies. In order to give consistency and efficiency to the movement, and surround it with the color of legal authority, an act of incorporation was procured from the Legislature of the State of Massachusetts, in which it was provided in the first section that twenty persons herein named, and "their associates, successors and assigns, are hereby made a corporation, by the name of the Massachusetts Emigrant Aid Company, for the purpose of assisting emigrants to settle in the west, and for this purpose they shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities set forth in the 38th and 44th chapters of the Revised Statutes" of Massachusetts. The second section limited the capital stock of the company to five millions of dollars, and authorized the whole to be invested in real and personal estate, with the proviso that "the said corporation shall not hold real estate in this commonwealth (Massachusetts) to an amount exceeding twenty thousand dollars." The third section provided for dividing the capital stock of the corporation into shares of one hundred dollars each, and prescribed the mode, time and amounts in which assessments might be made on each share. The fourth and last section was in these words:

At all meetings of the stockholders, each stockholder shall be entitled to cast one vote for each share held by him; provided, that no stockholder shall be entitled to cast more than fifty votes on shares held by himself, nor more than fifty votes by proxy.

Although the act of incorporation does not distinctly declare that the company was formed for the purpose of controlling the domestic institutions of the Territory of Kansas, and forcing it into the Union with a prohibition of slavery in her constitution, regardless of the rights and wishes of the people, as guaranteed by the constitution of the United States, and secured by their organic law, yet the whole history of the movement, the circumstances in which it had its origin, and the professions and avowals of all engaged in it, render it certain and undeniable that such was its object. To remove all doubt upon this point your committee will here present a few extracts from a pamphlet published by the company soon after its organization, under the following caption:

Organization, objects, and plan of operations of the