

TERRITORIAL CONVENTION.

THIRD DAY.

Wednesday Morning.

THIS morning the convention resumed its sitting at 10 o'clock, and after prayer and the transaction of some preliminary business

Judge Hayden.

the mover of the resolution to adjourn *sine die*, delivered the following address in behalf of that motion:

MR. PRESIDENT—

My object in making the motion to adjourn *sine die* on Monday was simply to define my position on a State government for Utah. I was not aware that the discussion of the question would take so wide a range or that it would have invoked so much bitterness of expression. If I had thought so, I most certainly would not have made it, and none regret more than I do that gentlemen should have taken this occasion to speak in such harsh terms of the government and its officers. That very fact will do more against the admission of Utah than a thousand petitions signed by as many people; for the government will at once say, "Why, these people who abuse the government and its officers are not fit people to join the sisterhood of loyal States." I have noticed more than once that generally great wisdom marks your course in worldly matters, but in this instance it was truant.

When I became a citizen of this Territory I had determined to keep aloof as far as possible from the conflicting elements which seemed to disturb the extreme wings of the public mind. I did not come here to make a warfare on a people to whom I was comparatively a stranger, because they differed with me on vital and religious principles, or because some bad men sought refuge within their walls.

I came to practice my profession in a quiet, unobtrusive way, and to act justly and squarely towards all men, whether Mormon or Gentile—"nothing extenuate nor ought set down in malice." I am proud to say that the religion of my fathers has not so blinded my vision by prejudice, but that I can see good by whomever presented, even though it comes from modern Zion. It was well known to many that I was opposed to the State movement, and for fear of causing discord I contemplated resigning, and would have done so, but for the urgent solicitations of Gentile and Mormon friends on this floor; therefore this debate is as distasteful to me as it can possibly be to you, but as I am here I will tell you candidly and honestly my views without sacrificing a single thought for policy when principle is at stake.

I will not occupy your time very long, but I feel it my duty, since I was the innocent cause of all this debate, to say a few words in reply to what has been said on the other side.

Among the reasons I gave why I was opposed to a State government, was the necessary increased taxation. I have not heard any attempt to controvert that reason. The fact is it is incontrovertible. An onerous tax will necessarily follow, keeping foreign capital out and retarding the development of the resources of the State. It will be the history of other new States written over.

I have attempted to analyze the labored arguments and carefully prepared speeches of the gentlemen, and the result I have arrived at is this: I am a Gentile, Mr. President, by education and conviction, and by my action here represent in part the Gentile sentiment of Salt Lake county, and if my Mormon friends who elected me thought I might be used for the purpose of giving a Gentile color to this Convention, all I have to say is they have mistaken the man. Why, sir, I venture the assertion that outside of the Gentile delegates on this floor there are not fifty Gentiles in Salt Lake county, and I doubt if a hundred in the Territory, who favor a State government at the present time. The Gentile sentiment of Utah Territory is opposed to a State government, and you know it, Mr. President, as well as I do, and the reason that you were selected to fill the honorable position you do, was, in my opinion, that you might be used as a false light to deceive the uninformed as to the true Gentile status of the citizens of Utah.

They want a State Government because McKean differs with them on questions of law.

Because the Supreme Court of the Territory does not render its decisions in accordance with their idea of law, because, as they say, the general gov-

ernment is a "despotism" and "oppressive," so the question is about narrowed down to this—*State Government vs. Jas. B. McKean*. Who is this man McKean, that you have, with such bad taste and ungallant tone, abused and vilified?

If I were disposed to violate the proprieties of parliamentary law and invoke a malice I have not, I might draw a comparison between the man McKean's motives and his traducers on this floor. Such a course is foreign to my feelings and repulsive to my reason, for I have arrived at the time of life when the virus of the serpent has no harbor in my breast—and I thank God if I have not the power to lift men up, I glory in the thought that I am too feeble to pull angels down.

I will hastily glance at some of the leading historic points of Judge McKean, the man whom the President of the United States appointed, and the Senate of the United States confirmed as Chief Justice of Utah, and let us see if his history corroborates the testimony of his Utah censors.

When quite a young man he was elected Superintendent of Public Schools in the county of Saratoga, State of New York, in which he was reared.

He was elected County Judge of the same county a few years afterward—the first Republican ever elected—and held the office for four years, and during his term many of his decisions were published in Howard's Practice Reports and adopted at the rules of practice in that great State, noted for its legal minds and great statesmen.

We find him next elected to the Congress of the United States from the Saratoga District, served the term and re-elected to Congress. In the autumn of 1861, while my colleague was thundering his eloquent anathemas against traitors to the flag of our country and nerving the loyal heart to arm in Nevada, we find this much abused man raising a regiment of the Boys in Blue, and at its head as colonel did distinguished service at the part about Manassas, the Peninsula campaign and against Richmond. There, defending the honor of that government which has been maligned to-day, "he contracted a malarial fever which so prostrated him that his life was despaired of." "Consequently, in July, 1863, he resigned his commission and was removed to his home, and it was six years before he was able to resume the practice of his profession."

Judge McKean numbers among his best and warmest friends many of the wisest and bravest of the nation, foremost among whom is his companion in arms, U. S. Grant, President of the United States, and who paid him a high compliment in his last message to Congress on his administration in Utah.

So you see, whatever may be said against his integrity, or however his motives may be impugned, the record of his past life will triumphantly refute it among those who know him.

I have known Judge McKean but a short time and am most happy to say, although I differ with him on some questions of law relating to this Territory, yet I believe him to be a gentleman of honor and integrity, and occupies so high a plane that the missiles of his adversaries fall harmless at his feet. Sir, I don't speak the sentiments of myself alone, but I re-echo the sentiments of thousands in this Territory and hundreds of thousands beyond the mountains.

The peroration of my colleague's speech was mainly confined to appeals to the majority to sacrifice what they call a divine ordinance of their religion for the coveted bauble of a State government. Why, what change has come over the spirit of your dreams, that you, with greedy ears, caught the sweet cadence of the pleader's voice, wooing you from Charybdis to be wrecked on the treacherous Scylla!

From conversations with many of you whom I believe to be gentlemen of integrity and honest religious convictions, from what I know of your history, your persecutions, trials and privations for your religion, I am not prepared to believe without a new revelation that prosperity has so weakened your faith as to trade off a divine ordinance for a "tinkling cymbal."

I entertain too much respect for you, and so does the Christian world, to believe you are sincere, if you make the sacrifice, unless new lights conscientiously guide you. Once lose the respect the world has for honest devotees to your faith, and you are gone, gone, like Lucifer never to rise. What would you think of a Mohammedan, who to gain a peaceful entrance to a river thereby enriching his coffers,

would be willing to sacrifice the crescent for the Greek Cross? Why would you think and act as the Turk thought and acted, and whom the Christian world sympathized with and granted succor to. Why if you did make the sacrifice, do you believe without more light, the world would believe you were sincere? No!

Your very steadfastness to your faith amid the trying difficulties which encompassed you, like "the still small voice," found a lodgment in thousands of honest hearts all over the world.

What will history write? What will the world say of a convention composed almost entirely of Latter-day Saints, among whom are six apostles and twenty bishops, ready and willing to sacrifice one of their divine ordinances for the sake of a State government?

Hearken to the words of a Gentile who is no enemy of yours, but who has every reason to be your friend, who has no favors to ask except those that one Christian may rightly demand of another—Stay where you are and bide your time! "Learn to labor and to wait" until a new ordinance shall manifest itself for your guidance.

Mr. Fitch

Replied to Mr. Hayden as follows:

MR. PRESIDENT—

I do not intend to say anything to disturb the harmony and good feeling of this convention. But my colleague seems to have misapprehended the spirit if not the letter of my remarks. In the address which he has just read to the convention, he has spoken more than once of gentlemen on the other side maligning the government of the United States. The remarks which I had the honor to submit to the convention yesterday were, as stated by my colleague, carefully prepared. It is a practice that I seldom pursue, but I was so fearful that in the heat of debate I might in an unpremeditated utterance, say something that would be the subject of legitimate criticism, that I thought I would carefully prepare that speech, which has been printed from the manuscript without the alteration of a word, and I defy my colleague—I defy any gentleman on the floor of this convention or out of it to point to one paragraph, one sentence, one word of that speech in which I uttered anything that might be considered as tinged with disrespect towards the government of the United States. I have never called this great government a despotism, I have never maligned this government, I have never uttered one word in the course of my brief public life that was tinged with antagonism to the government of the United States or that expressed other than loyalty to its principles, and devotion to the perpetuity and power of this great and glorious government. But Mr. President the government of the United States is one thing and the men who are sometimes carelessly elected, not by the people but by executive choice, to administer some offices of that government, is another. The mistake my colleague makes is in supposing Judge James B. McKean to be the government of the United States, or that his judicial course represents it. While I disclaim abusing the government, I also disclaim abusing Judge McKean. Sir, that which I said concerning him is a compilation of the record facts. That I may have made some trifling observations on these facts as I went along is true, but the simple statement of the facts, compiled from the records of his own court, constitutes the bulk of that which my colleague calls "abuse." I am content that this record shall go to Judge McKean's superiors, that it shall go to the people of the United States, as it has gone before this convention, and to the people of this Territory. I am content that it shall go separated from any reflections of my own. My colleague has spoken of Judge McKean's record in New York as a record of integrity and of loyalty to the government. I have never assailed his record in New York. He was fortunately so situated that he was able to offer to the government of the United States, in a perilous hour, that which I as well as my colleague from Salt Lake then living in Nevada were so situated as to be unable to offer, namely, our arms and our swords. But because he was so situated and because he fought for his country, that does not assail in any manner the accuracy of the statements made here yesterday by me with respect to Judge McKean's course of conduct in this Territory. I am content to believe that he was a wise, a virtuous and a patriotic citizen there, but it is not what he did there that we are here to consider, it is his

course of conduct here that I have reviewed, and so far from that review being outside of the proper limits of debate it seems to me perfectly legitimate. The subject under consideration is the necessity of a State government, and here as in Nevada the necessity for that State government arises out of the condition of the courts, and the condition of the courts is therefore a legitimate subject of consideration on a resolution to adjourn without an attempt to form a State constitution. If my colleague is content with his position as an endorser of McKean on the strength of Judge McKean's biography, if without attempting to controvert one single fact, or explain one of those record circumstances laid before this convention my colleague is content, and Judge McKean is content with defense of previous good character, I have nothing more to say, and the record and the defense may go to the convention and to the country together. In reply further to my colleague's powerful and eloquent plea to the members of this convention and to the Mormon people not to relinquish polygamy—in reply to his earnest advocacy of that institution, and his evident desire that they shall perpetuate it, I have only to say that if he represents the hostile Gentile element of Utah, as he claims to represent it here, and that element is content with his position in this respect, I am also content. The difference between my colleague and myself may be briefly stated thus—I wish the people of Utah to give up McKean and polygamy, he desires the people of Utah to stand by polygamy and McKean. (Applause.)

Col. Akers.

Said he commenced the discussion on the subject, and he felt that he ought to say a little more in answer to his colleague, and he delivered the following remarks—

I do not propose making a set speech; but having opened this discussion, I feel that out of respect to my colleague I ought to reply to what I consider the chief argument embodied in his speech.

In connection with the resolution offered by my colleague, there were four reasons recited, upon which he based his opposition to the formation of a State government. To-day, three of these reasons disappear from his speech; and he now rests his opposition upon the sole ground that the formation of a State government would increase taxation. My only reply to that position is, that, carried out to its fullest extent, it would throw this country back at least half a century. If it has any force, as applied to Utah, it has the same force when applied to every State that has been added to the "old thirteen."

But this, as my colleague knows, and as every gentleman present knows, is not the reason why the formation of a State government for Utah is opposed at this time. I confess to you, Mr. President and gentlemen of the convention, if I should undertake at all to give the reasons why a State government should not be formed, I would go home at once to the central reason, the one that lies at the foundation of every man's opposition. That reason, as we all know, is the existence of polygamy, and I may add a vague sort of notion, which is entertained, that the State so formed would be a Theocracy. Is not that, honestly, the real ground of opposition to the formation of a State government?

There runs through my colleague's resolutions a spirit very nearly akin to the one which he disclaims. He tells us if he has no power to lift men up, he certainly has no desire to "drag angels down." And yet he discloses in his resolutions a fixed and settled purpose to obstruct the progress and elevation of the people, which would arise out of the formation of a State government. And I must submit, that it is much easier to pull down, than it is to build up. It requires a much lower order of talent to destroy than to create. You all know how slowly and reluctantly human nature rises up from sloth and ignorance and animalism, and what constant efforts are required to raise and hold up the sluggish mass of society. But a single hand may cut the cord and let it thunder back on destruction. To raise a garden to its highest state of cultivation, industry and taste and constant pruning and much culture are required; but a herd of swine can root up and destroy the beauty of that garden in an hour. (Applause.) I want to see a State government, Mr. President, because I desire that the whole system of administration in this Territory shall be changed; and I believe I utter a senti-