DESERET NEWS:

WEEKLY.

TRUTH AND LIBERTY.

WEDNESDAY, - July 8, 1874.

IS IT REPUBLICAN OR IMPERIAL?

Is the Government of the United States republican or imperial?

This may seem to some a rather startling and perhaps unnecessary question, but there are reasons why the question may be very properly asked.

All governments act more or less imperially in times of war, but we are not living in a time of war, nor in a state of war, nor are we asking this question in reference to times or states of war.

Judging by the action of a portion of the representatives of the people in Congress assembled, and by some of the official representatives of the federal government in Utah and elsewhere, the question frequently and quite naturally and spontaneously suggests itself to us—"Is the government of the United States republican or imperial?" For when dealing with this Territory many members of Congress, and when dealing with the majority of the citizens of the Territory, some of the federal officials therefor, talk and act as if the federal government was imperial and not republican in character, and as if they were dealing with this community as with a community in a state of war, and with members of the community as with so many openly declared rebels. It does seem that the idea of treating Utah as an integral portion of the republic, and her citizens generally as fellow-citizens, justly entitled to all the rights, privileges, and immunities commonly enjoyed by citizens of this republic of the United States was a policy never pursued, but that an exactly opposite course was studiously pursued, wherein impartiality, equal rights, the freedom and liberty of American citizens were not thought of, and in cases of difference no such thing as toleration of deed or thought, no such thing as candor or conciliation, no such thing as fairness or equity could be entertained.

We do presume that the government of the United States is properly and fundamentally republican and not imperial, republican in spirit as well as in form, and therefore that all portions of its citizens should be treated by the federal government and by its various representatives in a thoroughly republican spirit and in accordance with a thoroughly republican policy, in which imperialism or monarchalism or despotism has no right and should have no place.

Where has the federal government any right, any authorization, to treat a Territory in an imperial spirit and a State in a republican spirit, to regard the inhabitants of a State as full fledged citizens of a republic, and the inhabitants of a Territory as mere dependents upon imperial clemency? We can find no warrant for any such double-dealing, inconsistent, partial, and unjust line of policy, not the least. On the contrary, the ruling principles of the American government, from its birth, July 4, 1776, to the ensuing anniversary of that glorious national natal day, July 4, 1874, are indubitably in favor of the enjoyment of purely republican principles by all citizens in every portion of the nation. This is our idea of the republic of the United States. We believe it is a republic, and cannot consistently be anything else to any of its citizens, to any number of them, to any integral portion of the nation. Every right-minded American citizen considers this a republican nation, the dominant party rejoices in the distinctive title of Republican, and all over the intelligent world, at home and abroad, the United States is considered a republic, the most free, liberal, and enlightened republic on the globe.

True, the United States is not a democracy, because the voice of the people does not determine every public measure, but it may properly be termed a democratic republic, wherein all public business is done by either the voice of the people or the voice of their representatives, one or two or more removes from the popular voice, but none the less based upon the voice of the people, and supposed to represent it. This we regard as the real and true character of the United States government, though it may not always be administered in that spirit and intent.

We think we have abundant basis for this view of the true and proper character of the federal government. The Declaration of Independence premises that it sometimes "becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and of nature's God entitle them."

But that document is still more express—

"We hold these truths to be self-evident—that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."

"When a long train of abuses and usurpations, pursuing invariably the same object evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to alter their former system of government."

Thus it will be seen that governments derive their just powers from the consent of the governed; that all men are created equal, and therefore have equal rights, inalienable rights, which governments are instituted to secure; and that when a government fails to do this, it is the right of the people to alter and abolish it, and institute a new and better government. This is republicanism, this is democracy, for all the people, not for those of a State while excluding those of a Territory. This does not favor republicanism for a portion and imperialism for another portion of the people, but expressly forbids any such invidious distinction, and announces the right and duty of the people to alter or abolish a government that acts with such unwarrantable partiality, such flagrant culpability to the God-given rights of humanity.

The second of the Articles of Confederation provides that "each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States in Congress assembled." Was the power to treat the citizens of the United States in a Territory imperially ever expressly delegated to Congress? If it was, when was it?

The Constitution delegates to the federal government certain rights, but it also makes the following express provisions—

"The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

"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."

Again—

"The United States shall guarantee to every State in this Union a republican form of government."

Territories are inchoate States, and therefore the former should be governed, equally with the latter, in a republican spirit, with the view of the Territories ultimately becoming States, for Congress has no right to acquire territory for any other purpose.

"The United States, under the present constitution, cannot acquire territory to be held as a colony, to be governed at its will and pleasure." Dred Scott *v.* Sandford, 19 How. 395.

The constitution gives to Congress the power to exercise exclusive legislation over the seat of government (District of Columbia), not to exceed ten miles square, also over federal forts, magazines, arsenals, dockyards, etc. But even this power must be exercised according to the constitution, according to republican principles, for the constitution positively says that it, and all laws made in pursuance thereof, "shall be the supreme law of the land, and the judges of every State, the senators and representatives in Congress, the members of the legislatures of the several States, and all executive and judicial officers, federal and State, "shall be bound by oath or affirmation to support this Constitution." Where, then, is Congress, or any federal official of any kind whatever, authorized to act towards a Territory in an unconstitutional or unrepublican or imperial manner? We do not know of anywhere, and such a policy is utterly opposed to every principle of American or republican government. The federal government is a republic, and is bound to act upon republican principles towards every portion of its citizens.

THAT BILL IN THE HOUSE.

How Poland Rushed His Bill Through—The Amendments Definitely Stated.

HOUSE, Washington,
June 23, 1874.

The next business on the Speaker's table was the bill (H. R. No. 3097) in relation to courts and judicial officers in the Territory of Utah, returned from the Senate with amendments.

MR. POLAND. I move that the rules be suspended and the amendments be concurred in.

Mr. CROUNSE. Is it in order to call for the reading of the bill?

The SPEAKER. Strictly speaking it is not in order to call for the reading of the original bill, for the House is supposed to understand what it has passed. But it is proper to call for the reading of so much of the bill as will render intelligible the effect of the amendments made to the bill by the Senate.

Mr. POLAND. The Senate have struck out so much of it that I think my friend from Nebraska [Mr. Crounse] will be satisfied.

The amendments of the Senate were read, as follows:

Strike out after "divorce" in line 15, page 3, down to and including "fact" in line 6, page 4.

On page 4, line 15, after "court," insert:

Nothing in this act shall be construed to impair the authority of the probate court to enter land in trust for the use and benefit of the occupants of the towns in the various counties of the Territory of Utah, according to the provisions of an act for the relief of the inhabitants of cities and towns upon public lands, approved March 2, 1867, and an act to amend an act entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved June 8, 1868; or to discharge the duties assigned to the probate judges by an act of the Legislative Assembly of the Territory of Utah entitled "An act prescribing rules and regulations for the execution of the trust arising under the act of Congress entitled 'An act for the relief of the inhabitants of cities and towns upon the public lands.'"

Page 5, line 10, after "appeals" insert:

A writ of error from the Supreme Court of the United States to the supreme court of the Territory shall lie in criminal cases where the accused shall have been sentenced to capital punishment, or convicted of bigamy or polygamy.

Page 8, line 4, after "challenges" insert:

Except in capital cases where the prosecution and the defense shall be allowed fifteen challenges.

Page 8, line 4, strike out all after "challenges" in line 4, down to and including "same" in line 8.

Strike out section 7.

Mr. POLAND. I move that the rules be suspended and the amendments of the Senate concurred in. A great deal that was good in the bill has been struck out by the Senate, and a great deal that is good is still left in it.

Mr. CROUNSE. I do not think there are half a dozen members in the House who understand the effect of these amendments. I call for the reading of the bill as amended.

Mr. POLAND. I move to suspend the rules so as to dispense with the reading of the bill and to concur in the amendments of the Senate.

Mr. CROUNSE. I move that the House take a recess for three quarters of an hour, during which time members may have an opportunity to examine the amendments of the Senate.

The SPEAKER. That motion is not in order pending a motion to suspend the rules.

Tellers were ordered; and Mr. Poland and Mr. Crounse were appointed.

The House divided; and the tellers reported that there were—ayes 112, noes 36.

So the motion to suspend the rules was seconded.

The question was upon seconding the rules and concurring in the Senate amendments.

Mr. ELDREDGE. On that motion I call for the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division there were—ayes 21, noes 96; not one-fifth in the affirmative.

Before the result of this vote was announced,

Mr. ELDREDGE called for tellers on ordering the yeas and nays.

Tellers were not ordered, there being 22 in the affirmative, not one-fifth of the quorum.

So the yeas and nays were not ordered.

The rules were then suspended, (two-thirds voting in favor thereof,) and the amendments of the Senate were concurred in.—*Congressional Record.*

A NEW DEPARTURE.

As the Courts have been waiting for the action of Congress, and as Congress has now acted for their special relief and benefit, it is understood that they will take a new departure and begin to do something. The excuse for inaction having been taken away, active terms may naturally be expected. The masterly inactivity policy has accomplished a little, though perhaps not as much as was hoped for. Still, something has been gained, and consequently a new judicial departure may be made.

While the courts are making this new departure, they may as well make another to keep it company. They have been excluding aliens from the benefits of naturalization on account of their religion. This is not a constitutional way of doing. Congress is prohibited from making any law concerning an establishment of religion, or prohibiting the free exercise thereof, and surely if Congress can make no such law, the judiciary cannot constitutionally interpret any law to mean or imply what the constitution expressly prohibits to the law. Now the judiciary might gracefully make a second new departure by ceasing to apply unconstitutional tests to applicants for naturalization. This would be a departure to be highly commended, and it is to be hoped that it will be promptly taken.

THE FOURTH.—To-morrow is the Fourth, the great, the grand, the glorious Fourth, the anniversary of that never-to-be-forgotten day, when America declared her independence of the Old World as to government. The weather is certainly smoking hot, everything is hot, even the ice can't endure the mercury sliding among the nineties. Nevertheless, although no grand procession or other monster public demonstration is announced, there will be a general holiday, a great deal of Fourth of July-ing, and everybody will be enjoying himself, one way or another.

Some will go to Lake Side, some further north, some west, some to Provo, some to other portions of Utah Valley or the southern part of this, some to City Creek or Parley's Park, or one or other of the Cottonwoods, some to Hill's farm, or Green Lake, or Lindsey's, or Camp Douglas, or the Cemetery. Then there are the Theatre and the Circus, and very likely many social parties, family re-unions, etc. So that, all things considered, there will be ample justice done, in the most patriotic and we presume peaceful manner, to this great national holiday.

DIED.

In the 16th Ward of this city, July 1st, of typhoid fever, RICHARD SHINGLETON, aged 27 years, 9 months and 18 days.

At Ephraim, June 17th, 1874, INGER MARIE PETERSON, born in Kiolbye, Denmark, Sept. 13, 1809.

Scandinavian Stjerne, please copy.

THE POLAND BILL,

In relation to Courts and Judicial Officers in the Territory of Utah, as it passed the Senate and House of Representatives, June 23, 1874.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the United States marshal of the Territory of Utah, in person or by deputy, to attend all sessions of the supreme and district courts in said Territory, and to serve and execute all process and writs issued out of, and all orders, judgments, and decrees made by, said courts, or by any judge thereof, unless said court or judge shall otherwise order in any particular case. All process, writs, or other papers left with said marshal, or either of his deputies, shall be served without delay, and in the order in which they are received, upon payment or tender of his legal fees therefor; and it shall be unlawful for said marshal to demand or receive mileage for any greater distance than the actual distance by the usual routes from the place of service or execution of process, writ, or other paper, to the place of return of the same, except that when it shall be necessary to convey any person arrested by legal authority out of the county in which he is arrested, said marshal shall be entitled to mileage for the whole distance necessarily traveled in delivering the person so arrested before the court or officer ordering such arrest. Said marshal is hereby authorized to appoint as many deputies as may be necessary, each of whom shall have authority, in the name of said marshal, to perform any act with like effect and in like manner as said marshal; and the marshal shall be liable for all official acts of such deputies as if done by himself. Such appointment shall not be complete until he shall give bond to said marshal, with sureties, to be by him approved, in the penal sum of ten thousand dollars, conditioned for the faithful discharge of his duties; and he shall also take and subscribe the same oath prescribed by law to be taken by said marshal; and said appointment, bond, and oath shall be filed and remain in the office of the clerk of the supreme court of said Territory. In actions brought against said marshal for the misfeasance or non-feasance of any deputy, it shall be lawful for the plaintiff, at his option, to join the said deputy and the sureties on his bond with said marshal and his sureties. Any process, either civil or criminal, returnable to the supreme or district courts, may be served in any county by the sheriff thereof, or his legal deputy, and they may also serve any other process which may be authorized by act of the Territorial legislature.

SEC. 2. That it shall be the duty of the United States attorney in said Territory, in person or by an assistant, to attend all the courts of record having jurisdiction of offenses as well under the laws of said Territory as of the United States, and perform the duties of prosecuting officer in all criminal cases arising in said courts; and he is hereby authorized to appoint as many assistants as may be necessary, each of whom shall subscribe the same oath as is prescribed by law for said United States attorney; and the said appointment and oath shall be filed and remain in the office of the clerk of the supreme court of said Territory. The United States attorney shall be entitled to the same fees for services rendered by said assistants as he would be entitled to for the same services if rendered by himself. The territorial legislature may provide for the election of a prosecuting attorney in any county; and such attorney, if authorized so to do by such legislature, may commence prosecutions for offenses under the laws of the Territory within such county, and if such prosecution is carried to the district court by recognizance or appeal, or otherwise may aid in conducting the prosecution in such court. And the costs and expenses of all prosecutions for offenses against any law of the territorial legislature shall be paid out of the treasury of the Territory.

SEC. 3. That there shall be held in each year two terms of the supreme court of said Territory, and four terms of each district court, at such times as the governor of the Territory may by proclamation fix. The district courts shall have exclusive original jurisdiction in all suits or proceedings in chancery, and in