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A HISTORY OF THE CONSTITUTIONAL CONVENTIONS OF THE
TERRITORY OF UTAH FROM 1849 TO 1895

by

Jerome Bernstein

A thesis submitted in partial fulfillment
of the requirements for the degree

of

MASTER OF SCIENCE

in

History

Approved:

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There are many apologies which should be made for faults of style and content in this paper, but all of these should be attributed to the author and not to those who assisted him.

Jerome Bernstein

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INTRODUCTION

Of all the States in the Union, certainly no other underwent the trials and tribulations that Utah experienced in her quest for admission. Faced with controversy dealing with geopolitical and theological problems, the struggle occupied the second half of the Nineteenth Century.

Utah's initial quest for statehood suffered from that dilemma of almost all the Western territories, insufficient population. When Utah's numbers increased sufficiently, the official pronouncement of "polygamy" as a basic tenet of the Mormon Church, the dominant religion in the Territory, alienated many, the East especially, as being contrary to our western Anglo-Saxon heritage. Utah, looked upon with suspicion by the rest of the nation, was doomed in the early seeking of admission.

The problem of entering the Union was further complicated by the tug-of-war that each new area experienced as the North and the South struggled over the "free or slave" issue.

From the middle 1850's, Utah's denial of recognition centered around the problem of "polygamy," the refusal of the leaders of the predominantly Mormon population to consider at any great length any revision of their theological beliefs, which they coupled to Constitutional protection, together with the firm insistence of the Federal legislators that the practice be abolished made the struggle bitter and drawn out, as each refused to yield.

The territorial constitutional conventions were of a "rubber-

stamp" nature until the 1870's, when the general influx of non-Mormons forced a small but continuing change of attitude. The sentiment of the 1850's and 1860's was such as to refuse to even voice the issue of "polygamy," seeming to mask the problem with the air that it is our own personal business, and no concern of theirs. The refusal to face the political actualities of the times extended over innumerable memorials, and five statehood conventions, concluding in a surrender to the ever-rising trend of Federal supremacy over local issues with the final achievement of Statehood in 1896.

Utah's first steps towards civil government, the organization of the "State of Deseret," have been examined by Mr. Dale Morgan in his thorough "History of the State of Deseret,"¹ as well as in several Master's theses and Ph.D. dissertations.² The history of Utah's territorial statehood conventions have just been mentioned in passing. It is my purpose to examine each territorial convention beginning with a summary of the initial stage in 1849 and to examine in detail the territorial stages starting in 1856 and ending in 1895, to compare the resultant constitutions that emerged from each, and to show the influence that forced the gradual surrender of a people to Federal supremacy and "popular" insistence.

¹Dale L. Morgan, "History of the State of Deseret," Utah Historical Quarterly, VIII, No. 2-4, (January, 1940).

²Consult the section on Unpublished Materials in the Bibliography for a list works concerning Deseret.

CHAPTER I

SUMMARY OF PRE-TERRITORIAL ATTEMPTS AT STATEHOOD TO 1851

The first civil government was formed under and by the leaders of the Mormon Church. The "State of Deseret" was efficiently and quickly organized. On February 1, 1849, notice was posted throughout the territory of a convention to be held on March 5, 1849, for the purpose of establishing a state or territorial government.¹ The convention met as scheduled, was organized, and Daniel Spence was elected Chairman. Spence then appointed a committee of nine; Albert Carrington, Joseph L. Heywood, William W. Phelps, David Fullmer, John S. Fullmer, Charles C. Rich, John Taylor, Parley P. Pratt, John M. Bernhisel and Erastus Snow to draft a constitution.² All nine members were Mormons, and four were members of the Council of Twelve, the ruling body of the Church.

On March 8, 1849, the convention reassembled to hear the reading of the constitution.³ On March 9th, it was discussed by the convention,⁴ and on March 10th was unanimously adopted.⁵ Two days later it was unanimously ratified by the people.

The constitution of Deseret did not differ in any basic fashion

¹Deseret, Constitution (1849), Journal of the Convention. p. 3.

²Ibid.

³Ibid., p. 4.

⁴Ibid., p. 11.

⁵Ibid.

from those of the other states in the Union. The Declaration of Rights included clauses that guaranteed religious liberty,⁶ and the right to a jury trial.⁷

The proposed boundaries of Deseret as stated in the Preamble to the constitution included present-day southeastern Oregon, southwestern Wyoming, the western half of Colorado, all of Utah and Nevada, northwestern New Mexico, the northern two-thirds of Arizona and part of southern California.⁸

The franchise was extended only to white males,⁹ and voting was to be conducted by open ballot.¹⁰

Distribution of powers called for the usual three branches of government.¹¹ The constitution called for a bicameral legislature.¹²

The governor was granted a tenure of four years,¹³ and was salaried,¹⁴ and was given a veto.¹⁵

The judiciary was to be headed by a Supreme Court, and the General Assembly was granted the right to establish inferior courts,¹⁶ and

⁶Ibid., Art. 8, sec. 3.

⁷Ibid., Art. 8, sec. 7.

⁸Ibid., Preamble.

⁹Ibid., Art. 6, sec. 10.

¹⁰Ibid., Art. 6, sec. 8.

¹¹Ibid., Art. 1.

¹²Ibid., Art. 2, sec. 1.

¹³Ibid., Art. 3, sec. 1.

¹⁴Ibid., Art. 3, sec. 12.

¹⁵Ibid., Art. 2, sec. 14.

¹⁶Ibid., Art. 4, sec. 1.

to elect the judges of the Supreme Court.¹⁷

No mention was made of the controversial problem of slavery.

The wedding of Church and State was evident from the fact that on March 4th, the day before the constitutional convention met, Brigham Young and High Council published an election notice selecting March 12th,¹⁸ instead of the first Monday in May, as provided for in the new Constitution,¹⁹ as the date on which officials for the new State would be chosen. Also, on March 4th, the High Council drew up a slate for the major offices and a committee was appointed to choose the nominees for the minor offices.²⁰ The Council determined what offices the State would need, who should be elected to them, and the date the election would be held before the convention met.

The constitution was ratified on March 12, 1849, at which time a Governor, Lieutenant-Governor, Secretary of State, and an Auditor of Public Accounts were chosen.²¹ The election date was not the only provision in the election. A Governor (the only paid official)²² and Treasurer were elected. An Attorney-General, an Assessor and Collector, a Marshal and a Supervisor of Roads, none of whom had been mentioned in the constitution, were also elected. In addition, three Judges of the Supreme Court were elected,²³ although the constitution stated that

¹⁷Ibid., Art. 4, sec. 3.

¹⁸Morgan, op. cit., p. 84.

¹⁹Deseret, Constitution (1849), p. 8.

²⁰Morgan, op. cit., p. 85.

²¹Ibid., pp. 86-87.

²²Deseret, Constitution (1849), Art. 3, sec. 12.

²³Ibid. Governor, Brigham Young; Secretary of State, Willard

they were to have been chosen by a joint session of the Legislature.²⁴

At the second meeting of the General Assembly on July 3rd, a memorial for the admission of Deseret as a State was proposed, along with a delegate to present the new constitution and memorial to Congress.²⁵ On July 5th, Almon W. Babbit, was chosen as delegate to Congress, and on July 9th, the memorial passed the Senate.²⁶

The memorial to Congress advanced the following as arguments why Deseret should be admitted to the Union; (1) that all political power is inherent in the people; (2) that inhabitants of a region are best qualified to judge the type of government suited to their needs; (3) that the inhabitants of Deseret had organized a government in the absence of any government sanctioned by Congress which imposed a higher law than that of "the revolver and the bowie knife" to protect "persons, property, character, and religion;" (4) that the swarming gold emigration had made such an organization imperative; (5) that Deseret was so distant and so difficult of access as to render incorporation into any other State or Territory a practical impossibility; (6) Congress was therefore asked by the memorialists to admit Deseret into the Union on an equal footing with the other states.²⁷

Immediately upon ratification, the constitution of Deseret,

Richards; Lieutenant-Governor and Chief Justice, Heber C. Kimball; Associate Justices, Newel K. Whitney and John Taylor; Marshal, Horace S. Eldredge; Attorney-General, Daniel H. Wells; Assessor and Collector, Albert Carrington; Treasurer, Newel K. Whitney; Supervisor of Roads, Joseph L. Heywood.

²⁴Ibid., Art. 4, sec. 3.

²⁵Ibid., p. 12, 15.

²⁶Morgan, op. cit., p. 89.

²⁷Deseret, Constitution (1849), pp. 14-15.

along with the memorial requesting admission into the Union, was dispatched to Congress for their approval. While awaiting the decision of Congress, Utah became involved in an attempt to join together with California to quicken Deseret's acceptance. The proposed joining of Deseret with western California was revealed in a letter to Amasa Lyman in California signed by Brigham Young, Heber C. Kimball and Willard Richards. The idea appeared to come from General John Wilson's statement to the Mormons that President Taylor was sympathetic to the Mormon cause in the West. The proposed joining was considered because the lack of population restricted Deseret from becoming a state. The understanding between the two sections was that it was only to endure until 1851, then two separate states would be created. The Californians were unwilling, and nothing resulted of this attempt to gain statehood.²⁸

The memorial to Congress was rejected, because Congress had already decided on another course of policy, the Compromise of 1850. On September 9, 1850, Congress passed an Act creating the Territory of Utah. The Compromise also allowed California to enter the Union as a free state, while New Mexico and Utah were made Territories with restrictions as to slavery.²⁹

On March 28, 1851, the Provisional Government of Deseret was dissolved.³⁰

²⁸Orsen F. Whitney., History of Salt Lake City (Salt Lake City; Deseret Press., 1916), I, pp. 408-410.

²⁹Congressional Globe, 1849-1850, XXI, 1776, 1784.

³⁰Morgan, op. cit., pp. 113-114.

CHAPTER II

THE CONVENTION OF 1856

The Interim Period from 1851 to 1856

With Utah achieving Territorial status instead of anticipated statehood, the Territory turned to other tasks. Emphasis was laid upon enlarging the scope of settlement. Reaching southward from Great Salt Lake, Provo and Manti were added to Zion.

The appointment of Brigham Young as Governor of the new Territory by President Fillmore, and a predominately Mormon slate of territorial officers was received by acclamation within the Territory. However, the high courts dominated by non-Mormons soon ran into conflict with Governor Young and others of the Territorial administration, with the resultant Broochus, Harris, Brandebury controversies.

The practice of polygamy was formally avowed in 1852.

The Walker War of the early 1850's, featured one of the rare extensive occurrences of hostilities between the native Utes and the Mormon pioneers.

Despite being influenced by anti-Mormon sentiment in the East, President Pierce reluctantly named Governor Young to a second term.

During the middle 1850's the population of the Territory increased dramatically, featuring a heavy influx of English and Scandinavian immigration. The problem of feeding an isolated but rapidly growing people was complicated by large cricket and grasshopper infestations.

1856 saw the beginning of the heroic and oft times tragic Handcart Migration pushing outward from the Missouri Valley frontier.

The Territorial Legislature continued sending memorials to Congress requesting statehood. Their failure determined the leaders of the Territory to try again in earnest in 1856.

The Pre-Convention Period

The impetus preparing the Territory of Utah for a new try at statehood, was delivered in Governor Young's message to the General Assembly in the still unfinished State House,¹ in Fillmore City, Millard County, on December 11, 1855, when he stated:

...to place ourselves beyond cavil, upon the platform of equal rights, constitutional sovereignty and free government, based upon the principles sacred to every lover of American liberty as emanating from the people. I recommend that you take the initiatory steps towards our obtaining admission into the Union. Preparatory thereto, it will be necessary to have the census of the Territory taken and adoption of a constitution. I would respectfully suggest that this matter be taken into prompt consideration, that in case you deem it wisdom to make an effort for our admission as a State, the incipient laws may be passed at an early day.²

That the Legislature had anticipated the Governor's words is evident from the fact that on December 10th, Heber C. Kimball, the President of the Assembly appointed a special committee to look into the procedure necessary in the initiatory steps for admission into the Union as a state.³ The committee then prepared "An Act providing for holding a convention with a view to the admission of Utah as a State."⁴

The "Acts" for taking a census and holding a convention passed

¹L.E. Harrington, "Journal of Leonard E. Harrington," Utah Historical Quarterly, VIII (January, 1940), p. 20.

²The Deseret News, December 19, 1855.

³Ibid., December 19, 1855.

⁴Ibid., December 26, 1855.

a joint session of the Legislative Assembly on December 17, 1855. Five hundred copies were struck off by the Public Printer in Fillmore City for use by the Assembly, for distribution throughout the Territory, and to newspapers throughout the West.⁵

The Act itself called for the choosing of 39 delegates from the 12 counties then comprising the Territory of Utah, to a convention to be held in Great Salt Lake City on February 16, 1856, in order to write a constitution to define the boundaries of the new state as well as to designate its new name and further, to elect delegates to present the constitution and memorial to Congress.⁶

Conventions to elect delegates to the convention at Great Salt Lake City, took place in the chief centers of population throughout the Territory. The minutes of the meeting held at Cove, in Beaver County, have been preserved and perhaps can serve as an example as to what took place elsewhere. Citizens braving adverse weather conditions came from as far as 150 miles away to make their views known and to elect delegates from Beaver, Iron, and Washington Counties.⁷

Featured speakers included George A. Smith, Jesse N. Smith of Parowan City, and Judge Lee of Marmony in Washington County. Each speaker hammered away at similar points, one of which was the rapidly-growing population of the Territory which was estimated to have reached the 100,000 mark. It is ironic that the speakers based their information on estimates made by Judge W.W. Drummond, who was shortly to become involved in scandalous proceedings during his term in office. How-

⁵Ibid., January 2, 1856.

⁶Ibid.

⁷Ibid., March 12, 1856.

ever, the speakers favored him most eloquently:

Judge W.W. Drummond estimates our population in the neighborhood of 100,000 souls which estimate coming as it does, from a gentleman of his intelligence and capacity for judging of such matters, and withal, so disinterested is, in my humble opinion, worthy of full belief and credence.⁸

All speakers stressed the loyalty of the citizens of the Territory to the United States Government, basing their opinions on the people's love of the Constitution, and their championing of its principles, and the role that the Mormon Battalion played in the winning of California. The industry of the people in developing the Territory to its full potential, both in agriculture and manufacturing was stressed. Another point was the efficient way the settlers had dealt with the Indians of the Territory resulting in little strife and bloodshed.⁹

The resolutions offered to the main convention also followed the same points. They also chastised the Federal Government for the appointment of disinterested, corrupt officials, the telling of which was most colorful:

Resolved, that we as a people appreciated the inconvenience arising from the appointment of Federal officers by the General Government who generally have no interest in the country and whose only recommendation is the fact of their having performed some degrading political service or party trickery in some other countries and whose only anxiety is to fill their pockets, promote their own ease and comfort, regardless of the results of their own official blunders, or criminal neglect, to the inhabitants of this Territory...¹⁰

These points were used by speakers in all parts of the Territory, and served to lay the basic groundwork for argument in later years.

⁸Ibid.

⁹Ibid.

¹⁰Ibid., March 19, 1856.

The Convention of 1856

The convention delegates met in Great Salt Lake City at the Council House on March 17, 1856. It was a festive occasion for Salt Lake City; citizens arose to the firing of cannons and martial music from Capt. Ballo's Band. Flags floated from the cupolas of the governor's mansion and the Council House, from the flag poles on the Temple Block and in front of the Deseret and Livingston, Kinkead & Co.'s Stores, from flag staffs on the roof of Gilbert & Ferrish's Store, and from those on the roofs of many other public and private buildings.¹¹

At the Council House, the convention organized quickly and unanimously elected Jedediah M. Grant as president and Thomas Bullock as secretary. During the afternoon session, the freedom of the convention was extended to Governor Young and other important territorial figures.¹²

On March 24th, the final edition of the constitution was reported to the assembled delegates. It met with unanimous acceptance. Chief Justice Kinney dissented on only one point. He preferred to have the judges of Supreme Court elected directly by the people rather than by the General Assembly as provided for in the constitution.¹³

After a short session on March 27th, the convention was dissolved, George A. Smith and John Taylor were elected delegates to proceed to

¹¹ Ibid., March 19, 1856.

¹² Ibid.

¹³ Ibid., March 27, 1856.

the nation's capitol and to bring before Congress Utah's request for admission to the Union.¹⁴

The constitution was signed by every member of the convention. The resolution attached to the constitution provided for public approval to be expressed on April 7, 1856.¹⁵

The constitution itself was in the main, a copy of the constitution of 1849. Very few changes were made. Those that were made resulted from the changes in civil government that had not existed in such detail in 1849.

The Declaration of Rights again featured a guarantee of religious liberty.¹⁶ The boundaries set forth were reduced by the admission of California as a state in 1850.¹⁷ The vote was extended to adult males.¹⁸ The distribution of powers featured the usual three departments of government.¹⁹ The legislative article called again for a bicameral legislature,²⁰ and gave the General Assembly the power to prescribe the number of and make the apportionments of senators and representatives. The number of senators was settled to include not less than one-third nor more than one-half of the number of representatives.²¹

¹⁴Ibid., April 2, 1856.

¹⁵Ibid.

¹⁶Deseret, Constitution (1856), Art. 8, sec. 3.

¹⁷Ibid., Art. 1.

¹⁸Ibid., Art. 8, sec. 1.

¹⁹Ibid., Art. 3.

²⁰Ibid., Art. 4, sec. 1.

²¹Ibid., Art. 4, sec. 6.

The governor retained a veto,²² and again was granted a four year tenure.²³ Salaries were provided for the first time for state officials.²⁴

The judicial article provided for a Supreme Court, district and inferior courts. The Supreme Court justices were once again to be elected by the General Assembly. The new state was to be divided into 11 judicial districts.²⁵

Having completed the business of the convention, the writing of a constitution and memorial and the choosing of two delegates to bear these documents to Washington, the delegates returned to their homes to await the public approval of their work.

²²Ibid., Art. 4, sec. 13.

²³Ibid., Art. 5, sec. 1.

²⁴Ibid., Art. 10, sec. 2.

²⁵Ibid., Art. 6.

The Aftermath

On April 7, 1856, the constitution of Deseret, the memorial asking for admission into the Union and names of the delegates to Washington, George A. Smith and John Taylor, were presented to the people of the Territory for their approval or disapproval. In Great Salt Lake City, a large crowd jammed into the Tabernacle to voice their unanimous acceptance.²⁶ Its success could be predicted, for on the previous morning at a General Conference in Great Salt Lake City, a similar scene had been repeated:

In accordance with a resolution passed by the convention, the constitution of the State of Deseret was read by Thomas Bullock, and presented by President Grant for approval or disapproval by the people, when it was unanimously adopted by the vast host of electors present.

The memorial asking for the admission of Deseret into the Union was read by Elder Bullock and on a presentation by President Grant was unanimously adopted.

President Grant presented George A. Smith and John Taylor, delegates elected by the convention, and the election was unanimously confirmed by the people.²⁷

The Deseret News foretold speedy acceptance in an editorial that stated:

In as much as Congress have heretofore urged a State Government upon some, invariably given one when asked for even when those petitioning were but a small majority, and have ever manifested a proper and laudable anxiety and readiness to admit new states, can any one imagine that our delegates will be received by Congress in any manner short of the utmost cordiality, and that the unanimous vote of all Utah will not be cheerfully responded to

²⁶Ibid., April 9, 1856.

²⁷Ibid.

by the speedy addition of the brilliant star Deseret.²⁸

This was not to be. On December 18, 1856, Governor Young laid to rest Utah's second attempt to achieve statehood when disclosed in his message to the Legislative Assembly, the following said tidings:

In accordance with Acts of the Legislative Assembly, a constitution was formed and adopted, the census taken, and delegates chosen to present our application to Congress for admission into the Union as a Sovereign and Independent State. Recent advice from our delegates show that our applications have not been presented, owing to the intolerance evinced by the predominate party in the House of Representatives.

The enumeration of the inhabitants showed a population of nearly 77,000 in this Territory and it is presumed that the addition to our numbers since that was taken, would amount to about 20,000. This gives an aggregate equal to or exceeding the ratio of representation for Congressmen, removing every objection, if any were made, to our admission, on the score of insufficient population.²⁹

²⁸Ibid.

²⁹Ibid., December 24, 1856.

CHAPTER III

THE CONVENTION OF 1862

The Interim Period from 1856 to 1861

In the years following the rejection of the memorial of 1856 the emergence of Mormonism became a national issue.

The Territory experienced the judicial misadventures of the Judges George P. Stiles and W.W. Drummond, which led to a charge that the Territory was in rebellion. The Federal Government removed the predominately Mormon Territorial officials and dispatched a military expedition to escort the newly-appointed Governor Cummings and quell any signs of an uprising. The Utah War was the result.

The disorders of the late 1850's led to a reshuffling of many of the inhabitants of the Territory, and to the further settlement of Utah and Cache Valleys.

The Territory suffered the loss of vast blocks of land on her East and West boundaries which were made in 1861 into the Territories of Colorado and Nevada.

The outbreak of the Civil War seemed to fulfill an old Mormon prophecy, that a conflict between the North and South would lead to eventual destruction of both sides with the survivors turning to Zion for salvation.

The Pre-Convention Period

On December 12, 1861, a new attempt at Federal recognition was initiated, when Albert Carrington, the distinguished councilor from Salt Lake City, arose in the Council of the Legislative Assembly and proposed that a new memorial petitioning statehood for Deseret be drafted. Thus was born a "Memorial for the admission of the State of Deseret into the Union."¹ Four days later, "An Act to provide for a convention for the formation of a State Constitution" was proposed by Councilor George A. Smith of Iron County.²

On December 17th, the Legislative Council received a letter from John Taylor, Speaker of the House, announcing the appointment of a special committee to act in conjunction with a like committee from the Council, to consider the calling of a convention and the forming of a new constitution. George A. Smith, Albert Carrington, and Orson Pratt were appointed members of the special committee. The committee met and reported back in favor of a convention being called to form a constitution and to demand admission into the Union.³

For several days the bill providing for the formation of a constitution and state government, and calling for a general election on January 6, 1862 of 65 delegates to a constitutional convention was

¹Journal of the Legislative Assembly of the Territory of Utah. 1861-1862 Session. 1862 Edition. December 12, 1861.

²Ibid., December 16, 1861.

³Ibid., December 17, 1861.

passed back and forth between the Council and the House. Finally on December 18th, the House concurred in the final amendments proposed by the Council and approved the two bills. The following day both bills were submitted to Governor Dawson for his approval.⁴

On December 23rd the Legislature received notice from the Governor that he was returning both bills without his approval. He objected that insufficient time was being given for notice of an election, and that the memorial usurped the power of Congress by proposing to fix boundaries. He also felt that Congress ought first to approve, and especially that Congress ought to first pass an act authorizing the holding of a constitutional convention as provided for in the Organic Act of 1850.⁵

While the Legislature was considering this latest setback, Governor Dawson, under somewhat mysterious circumstances left Utah hurriedly, never to return.⁶ His place was taken by Frank Fuller, non-Mormon, but sympathetic to the statehood movement.⁷ Meanwhile, the people of the Territory gathered to elect their delegates at the convention. In the various counties and precincts, meetings were held to accomplish this purpose.⁸ The Deseret News ran editorials urging the populace of Salt Lake City to attend a mass meeting to be held at the Tabernacle on January 6, 1862, for the purpose of electing delegates.

⁴Ibid., December 18, 19, 1861.

⁵Ibid., December 23, 1861.

⁶Brigham H. Roberts, A Comprehensive History of the Church (Salt Lake City: Deseret News Press., 1930), V, pp. 13-14.

⁷The Deseret News, January 1, 1862.

⁸The Deseret News, January 8, 15, 1862.

It stated:

This movement of the people suits our notion of things, for we do not believe in being thwarted in any measure, the people or their representatives may choose to institute or adopt for their benefit, socially or politically, by foreign intervention.⁹

On January 6th, some 3,000 citizens¹⁰ gathered at the Tabernacle at 12:00 noon. Ballo's band provided popular numbers giving the movement a festive air. The assembly was called to order by Colonel J.C. Little, the City Marshal, who briefly stated the object of the meeting. Then Edward Hunter was elected Chairman, and William Clayton, Secretary, by unanimous vote. A resolutions committee of five was elected.¹¹ Brigham Young delivered an appropriate prayer, after which the resolutions committee retired. During the absence of the committee, the audience was addressed by Brigham Young and treated to a song by Mr. Dunbar, a popular local talent, and music by Ballo's band. After some 45 minutes had elapsed, the committee returned and reported an "Address, Preamble and Resolutions," which were read to the assembled crowd by William Clayton. The lengthy address restated the reasons for statehood and gave a brief summary of the persecutions that the Mormons had undergone at the hands of the citizens of Missouri and Illinois. It took the Federal Government to task for failure to insure religious and political freedom for the followers of Joseph Smith. The government was also chastised for sending out to the Territory corrupt and inefficient officials, while wholly capable ones were to be found

⁹Ibid., January 1, 1862.

¹⁰Roberts, op. cit., V, p. 3.

¹¹The Deseret News, January 8, 1862. Daniel H. Wells, William H. Hooper, John Taylor, George A. Smith, and Abraham O. Smoot.

at home. The departed Governor Dawson also was severely criticized for his proposal that a "loyalty oath" be administered to the people of the Territory, to insure their loyalty to the Union during its time of crisis.¹²

The Preamble and Resolutions, reminding the Federal Government of its propensity for selecting disinterested and oftentimes "evil-disposed" officials, urged that the people of the Territory be allowed a voice in the selection of their own officers. It also urged that taxation without representation should not be required, especially when the delegate to Congress had no vote, and thus, could not be considered a true representative. And further, if the people of the Territory ratify the forthcoming constitution, then the convention should memorialize Congress for admission into the Union.¹³

The Preamble and Resolutions were adopted by unanimous acclamation. The delegates were elected,¹⁴ and the meeting then was dissolved. Similar scenes were repeated throughout the Territory; Provo, Spanish Fork, Sanaquin, Grantsville, Tooele City, Corn Creek, Cedar City and St. George reported great enthusiasm and fevered oration.¹⁵

The Deseret News anticipated no other results except success and a change for the better.¹⁶

On January 14th, the House passed the proposed memorial, and the

¹²Ibid., January 8, 1862.

¹³Ibid.

¹⁴Ibid.

¹⁵Ibid., January 15, 1862.

¹⁶Ibid.

following day the Council followed suit.¹⁷ Acting Governor Fuller disdaining to use the arguments of his predecessor, granted his approval of the memorial on the following grounds:

As it appears to me, be contrary to best usage to submit a memorial to Congress for the purpose herein indicated without an accompanying constitution, or at least an allusion to such an instrument previously submitted, to afford a basis for Congressional action, I am compelled to view this memorial in the light of an application for authority to take the initiatory steps preparatory to admission as a sovereign State, which would be the formation of a State Constitution and accordingly declare the same approved.¹⁸

In the week preceding the convention, Brigham Young addressed himself to the delegates and made the following observation; "I was lately looking over the constitution we framed for a State Government six years ago. It is very near as we want it now."¹⁹

¹⁷Journal of the Legislative Assembly of the Territory of Utah. 1861-1862 Session. op. cit., January 16, 1862.

¹⁸Ibid., January 17, 1862.

¹⁹The Deseret News, February 19, 1862.

The Convention of 1862

The convention for the "Establishment of a State Government for Utah," began at 10:00 in the morning on June 20, 1862, at the Salt Lake County Court House in Salt Lake City. The elected members quickly assembled,²⁰ and on the motion of George A. Smith, a delegate from Washington County, Daniel H. Wells of Salt Lake City, was chosen as President pro tem. William Clayton was then called upon to act as Secretary pro tem. The credentials of the delegates were examined and found satisfactory. The delegates then took an appropriate oath to support the Constitution of the United States. Settling down to business, a permanent organization was elected.²¹ Committees were appointed to write a constitution and form of state government,²² and a memorial to Congress,²³ and appointments were made to committees on ordinances²⁴ and elections.²⁵ The freedom of the convention was then extended to ex-Governor Brigham Young, Heber C. Kimball, Acting-Governor Frank Fuller and

²⁰Ibid., January 22, 1862. See Appendix A.

²¹Ibid. President, Daniel H. Wells; Secretary, Wm. Clayton; Assistant Secretaries, Patrick Lynch and Robert L. Campbell; Sergeant-at-Arms, Robert T. Burton; Foreman, Andrew Cunningham; Doorkeeper, John W. Woolley; Assistant Doorkeeper, James F. Allred; Messenger, David P. Kimball; Assistant Messenger, Henry Heath.

²²Ibid. See Appendix B for the members of the committee.

²³Ibid. See Appendix B.

²⁴Ibid. See Appendix B.

²⁵Ibid. See Appendix B.

others.²⁶ The preliminary work accomplished, the convention adjourned until the following Wednesday.

On Wednesday, January 22nd, the convention set about its major tasks, the acceptance of a constitution and a memorial to Congress. George A. Smith, Chairman of the committee to write the constitution, presented to the delegates a "Constitution of the State of Deseret,"²⁷ which except in its recognition of boundary changes made by Congress since the last drawing up of a constitution in 1856, and in other minor particulars, was a reproduction of the constitution of 1856.

Article I, of the constitution, which contained the newly proposed boundaries and the name which the new state was to bear, stated the following:

All that part of the Territory of the United States bounded as follows: beginning on the thirty-seventh parallel of North latitude where it intersects the thirty-second meridian of longitude West from Washington on the 100th meridian of Longitude West from Greenwich, thence West on said parallel to the thirty-ninth meridian of longitude West from Washington, or the 116th meridian of longitude West from Greenwich, thence North on said meridian to its intersection with the forty-second parallel of North latitude, thence, East on said parallel to the thirty-second meridian of longitude West from Washington or the 109th meridian of longitude West from Greenwich, thence South on said meridian to the place of beginning is hereby formed into a free and Sovereign State and named Deseret.²⁸

The constitution and accompanying memorial were presented to the convention by their respective committee chairman and were unanimously adopted.²⁹ Attention was then turned to the mechanics of organizing a state government. The committee on ordinance reported that they were

²⁶Ibid.

²⁷Ibid.

²⁸Deseret, Constitution (1862), art. 1.

²⁹The Deseret News, January 29, 1862.

satisfied that the constitution covered all the provisions necessary to carry a state government into full force and operation.³⁰

The delegates were then reminded of their responsibility in seeing that their respective counties and precincts received due notice of the forthcoming March election for the choosing of a slate of State officials and the approval of the new constitution.³¹

Brigham Young and Heber C. Kimball then addressed the delegates, expressing their approval and confidence in the success of the undertaking. Young's words rang through the hall, "We shall form a State government, and you need not fear any consequences that may arise from such a course."³² The convention then adjourned until the following day.

On June 23rd, the convention reconvened for its concluding session, where minor business concerning the signing of five copies of the constitution, and the proposed memorial to Congress were quickly disposed of.³³ The convention was then addressed by Chief Justice Kinney, who reviewed the course of events in Utah's quest for statehood. He reminded the convention that the task was not yet achieved and that a long hard struggle was probable, but that justice and right were on the side of the inhabitants of the Territory.³⁴

Before adjourning, on the motion of Orson Hyde of Juab County, the convention unanimously nominated Brigham Young for Governor, Heber C. Kimball for Lieutenant Governor, and John M. Bernhisel for member of

³⁰Ibid.

³¹Ibid.

³²Ibid.

³³Ibid.

³⁴Ibid.

Congress.³⁵

The convention, having completed its business was dissolved, and the members, mostly businessmen,³⁶ were soon on their way home to resume their respective businesses.

The convention was conducted with a show of great unanimity. There was no major debate on any of the major issues confronting the delegates. Brigham Young had stated his approval beforehand, of the constitution of 1856. What was good enough in 1856 could still serve in good stead. His followers took him at his word. There was little to do save to rewrite the section pertaining to Deseret's new boundaries, and for the first time include a clause that encouraged the development of education.³⁷

The memorial to Congress once again restated the same arguments that were presented to no avail in 1856. The entire proceedings were brisk and carried out with great "dispatch."³⁸

There was a general feeling that Congress would readily accept the latest petition for admission, if only on the grounds of economics. The Union was engaged in fighting a determined foe, at great cost. The money saved by the Federal Government in letting the people of Deseret support their own government would not be inconsiderable. It was estimated that such a move would save \$40,000 in expenses, not a small sum in the black year of 1862.

Thus, the scene was set for the forthcoming March elections,

³⁵Ibid.

³⁶Ibid.

³⁷Deseret, Constitution (1862), art. 9, sec. 4.

³⁸The Deseret News, January 29, 1862.

and the presentation of the statehood memorial to Congress.³⁹

³⁹Ibid.

The Aftermath

The election campaign opened with a notice in The Deseret News of January 29, 1862, viz:

Each elector, who is in favor of ratifying the constitution, must have the words "For the Constitution" whether written or printed on his ballot, and those not in favor of its approval, will, of course, have the words, "Against the Constitution" similarly expressed on their ballots, but we do not believe there will be more than a dozen opposition votes cast in the Territory on that occasion.⁴⁰

Conventions were held in the various counties to nominate local officers for the March 3rd elections.⁴¹ Prominent legislators stomped the countryside to prompt the citizens to turn out and vote:

Hon. George A. Smith ... has been through Utah County delivering lectures in favor of the constitution and a State government for Deseret. His lectures at Payson, Spanish Fork, Provo, Pleasant Grove, American Fork, and Lehi were well attended, the people turning out en masse, manifesting a lively interest in the politics of the speaker, and in the rights of the citizens of this Territory.⁴²

The last 10 days in February, 1862, had some of the poorest weather in its history,⁴³ but on March 3rd, the people turned out in large numbers to select their representatives to the Legislature and to approve the slate of officers selected at the convention in January. The electorate turned out to the firing of guns, music from the local brass band, much prayer, and patriotic oration from the prominent cit-

⁴⁰Ibid., January 29, 1862.

⁴¹Ibid., February 19, March 5, 19, 1862.

⁴²Ibid., March 5, 1862.

⁴³Ibid.

izens of the locality.⁴⁴ There was no contest for officers; no opposition votes were recorded throughout the Territory.⁴⁵ The election in Ogden provided a typical example of the general feeling:

When the result of the election became known it was found that there was not one dissentient vote, although we, as a community have never gone in for opposition at our elections, but our efforts have ever been to make a selection of men for offices made elective; that would be satisfactory to the people, and who would faithfully labor for their interest, neither are we particularly fond of change for the sake of change; but, when we find men whose interests is the interest of the public and who labor, for the general weal, we are inclined to continue our confidence in old friends, instead of changing to try new ones. It will scarcely be necessary to say that such has now been the case, as the result of our election proves it.⁴⁶

By March 19th, the results of the first general election under the new constitution were made public; with Great Salt Lake and Utah Counties casting almost half of the vote. The slate and constitution were unanimously upheld.⁴⁷ Two days previously Brigham Young had received the following communication from William Clayton, Secretary of the convention:

Dear Sir: - I have the honor to inform you that upon canvassing the votes cast at the general election held on the third day of March, Inst., "for" and "against" the Constitution adopted by the Convention, on the twenty-second day of January, A.D. 1862, and submitted to the people for their rejection or ratification as provided therein, I find that the said Constitution was unanimously adopted, and I certify that you also, at the same time, duly elected to the office of Governor of the State of Deseret by the unanimous vote of the people.⁴⁸

Various opinions on Deseret's chances for statehood were ex-

⁴⁴Ibid., March 5, 19, 1862.

⁴⁵Ibid., March 19, 1862.

⁴⁶Ibid.

⁴⁷Ibid. See Appendix C for election returns.

⁴⁸Ibid.

pressed throughout the Territory at various functions, to wit:

Elder Pratt also spoke on the right of Congress to admit a state on application, according to the Constitution of the United States, but here the power of Congress ended. He quoted the sentiment uttered by Lewis Cass, of Michigan, in the United States Senate in 1856 that a State, if refused admission into the Union had the right to declare themselves independent ... Elder Pratt prophesied that what ever might be the action of the United States in relation to the admission of Deseret the result would be for the prosperity and advancement of the Kingdom of God.⁴⁹

On June 9, 1862, John M. Bernhisel, Utah's delegate to Congress, presented the constitution of the State of Deseret, and the memorial accompanying it asking for admission into the Union on an equal footing with the original States. It was received and referred to the Committee on Territories. The next day it was presented to the Senate, where Mr. Latham of California, moved to have the constitution printed, and to admit the Senators elect from Deseret, William H. Hooper and George Q. Cannon to the floor of the Senate.⁵⁰

On January 19, 1863, Governor Young's message to the General Assembly of the State of Deseret reported the following discouraging facts:

Congress, during its last session, was heavily burdened with duties pertaining to the conduct of the war, still being prosecuted for the restoration of the Union, so far as I have been advised, to no action upon our petition.⁵¹

However, Governor Young foresaw a ray of light in the fact that James M. Ashley of Ohio, Chairman of the House Committee on Territories, had reported enabling acts for the admission of Nebraska, Colorado, Utah, and Nevada. Thus, he felt encouraged enough to say:

⁴⁹Ibid., April 9, 1862.

⁵⁰Ibid., July 2, 1862.

⁵¹Ibid., January 21, 1863.

This action clearly indicates a wise abandonment by the House of the former irrelevant question in regard to population and justly rests admission of a Territory upon its capability for self-government and its Republican form of Constitution.⁵²

In Governor Young's annual message to the State of Deseret's General Assembly on January 23rd, he again reiterated his hopes that Utah, by assuming its own governmental expenses and the achievement of a large and vigorous population, would point the way to admittance.⁵³ His wishes were doomed to failure; for what must have been a great degree of sadness and heaviness of heart the people of the Territory read the following news item in the January 28th edition of The Deseret News:

A dispatch of the 19th states that the committee on Territories in the House had agreed to report favorably to the admission of Nebraska, Colorado and Nevada into the Union as States. A later telegram announces that the committee have instructed the Chairman to report a bill for the admission of Utah, with the prohibition of polygamy as one condition upon which she may be admitted, but what the others are has not transpired.⁵⁴

The long wait for statehood was to be continued.

⁵²Ibid.

⁵³Ibid., January 25, 1863.

⁵⁴Ibid., January 28, 1863.

CHAPTER IV

THE CONVENTION OF 1872

The Interim Period from 1862 to 1871

The period before the convening of the next territorial convention in 1872 saw the members of the ghost "State of Deseret" meeting annually until 1870. The early 1860's also witnessed the arrival of Colonel Connor and his column from California. The Colonel confined his military activities to fighting the Shoshones. He also opened the area to mining, resulting in the influx of non-Mormons, their influence to be soon felt in commerce and politics.

The mid 1860's witnessed the outbreak of the Ute Black Hawk War, Utah's last major Indian conflict. The war lasted for a period of three years until 1868.

On May 10, 1869, the Union Pacific met the Central Pacific on bleak Promontory Point. The last rail was laid, the continent spanned. The frontier was fast drawing to a close. The railroad brought with it trade, revitalizing commerce, and putting fresh emphasis on mining development.

The latter part of the 1860's saw a schism within the Mormon Church as the Godbeite movement brought forth its challenge to the established Church. The organization of the Liberal Party in 1870 in Corrine joined together gentile elements with apostate Mormon groups. The Mormons in retaliation formed the People's Party, which controlled Utah politics until the 1890's.

The struggle over polygamy came into sharp focus when President Grant took over the nation's helm in 1869. Polygamy was to be crushed. Anti-polygamy bills sprung up in Congress. Federal officials dedicated to wiping out the practice were appointed to the Territory.

Federal pressures made the Mormon leaders aware that statehood was imperative in order to protect the Church from further attack.

The Pre-Convention Period

The year 1872 witnessed the statehood movement on the march once again. The Deseret News stated:

There is one thing that ought to be done this very winter, and that is to admit Utah as a State in the Union. This ought to have been done years ago. It is a long delayed act of well merited justice, not to say a word of generosity of magnanimity. Utah ought to have been a State before Nevada, before Nebraska....¹

One of the main reasons that the political leaders of Utah felt the time opportune is proposed by Mr. B.H. Roberts in his The Comprehensive History of the Church. The contention is made that the Republican Party considered the approaching presidential campaign of 1872 as uncertain. It was felt that the Party would not be adverse to the admission of some new states, if the electoral votes of these states would be pledged to President Grant for a second term.² Mr. Roberts also points out that many non-Mormons in the Territory were dissatisfied with the radical rule of Governor Wood and the prosecutions of Judge McKean, and would unite with the Mormon majority on the question of statehood if an anti-polygamy clause could be inserted into the new constitution.³

On January 11, 1872, Mr. William B. Pace of Utah County,⁴ presented before the House of Representatives, a bill for an "Act pro-

¹The Deseret News, January 3, 1872.

²Roberts, op. cit., V, p. 458.

³Ibid., V, p. 459.

⁴A member of the Committee on Counties.

viding for a convention of Delegates preparatory to the admission of Utah into the Union as a State."⁵ The bill (H. F. 2) was referred to the Committee on Elections, who amended it to read "an Act providing for the election of Delegates to a convention to prepare a Constitution for the admission of Utah into the Union as a State." On January 12th, the bill passed the House,⁶ and was referred to the Council. The Judiciary Committee of the Council recommended a substitute bill (C. F. 3), "an Act providing for holding a convention to prepare a Constitution for the admission of Utah into the Union as a State." On January 19, 1872, the bill passed the Council,⁷ and the following day the House also approved.⁸ The Deseret News stated:

This business of applying for admission as a State is so old, and has been talked of and prepared for so many times that it is beginning to become a little wearisome, and it is getting time that Congress acceded to the request of the Territory⁹

On January 27, 1872, Governor Wood returned the bill without his signature, vetoing the Act on the grounds that according to the Organic Act setting up the Territory of Utah, the legislature had recourse only to the domestic concerns of the Territory. Governor Wood contended that the power to abolish the Territory and substitute statehood was not conferred. He further held that an enabling act by Congress was necessary before a statehood movement could be initiated. The Governor also pointed out that Congress had been adverse to ad-

⁵Journal of the Legislative Assembly of the Territory of Utah. 1871-1872 Session. 1872 Edition. January 11, 1872.

⁶Ibid., January 12, 1872.

⁷Ibid., January 19, 1872.

⁸Ibid., January 20, 1872.

⁹The Deseret News, January 24, 1872.

mitting new states with a population less than would entitle them to one Representative in Congress. The Governor put the final damper on the movement, when he concluded that statehood was a privilege, not a right, and until all violations of the laws of Congress ceased and the people of the Territory legislated polygamy out of existence, statehood was impossible.¹⁰

On January 27, 1872, Mr. Joseph W. Young moved that a joint committee be appointed to draft a resolution submitting to the people of the Territory the question whether or not they would vote for the holding of a statehood convention.¹¹ Mr. John Taylor followed with the proposal that a committee be appointed to express the "sense" of the House in relation to the offensive charges in the Governor's message.¹² At the same time in the Council, Councilor Jesse N. Smith presented the following:

Mr. President: - I motion that the Committee on Petitions and Memorials take into consideration the propriety of memorializing Congress to have the Organic Act so amended that the Governor's veto of an act may not be absolute, but that a two-thirds vote of the Legislature may pass an Act over his veto, as in most other Territories in the United States.¹³

On January 31, 1872, Mr. John Taylor, the Chairman of the Special Committee appointed to express the "sense" of the House in relation to the Governor's veto made his reply. To the Governor's contention that "the calling of a convention without an enabling act, was not a rightful subject of legislation," the Committee asserted

¹⁰Journal of the Legislative Assembly., op. cit., January 27, 1872.

¹¹Ibid., The members of the Joint Committee were John Taylor, A. P. Rockwood, Joseph W. Young, George Q. Cannon, Leonard E. Harrington.

¹²Ibid.

¹³Ibid., January 27, 1872.

that "the right of the people to peaceably assemble and petition the Government for a redress of grievances, shall not be denied." To the Governor's contention that "it has been the uniform practice of Congress to confer that power through enabling acts," the Committee asserted that:

In June, 1836, acts were passed for the admission of Arkansas and Michigan into the Union, previous to which an act had been passed by the Territorial Legislature of Arkansas without the approbation of the Governor, calling for a convention to assemble the 1st inst. of January, 1836, to form a State Constitution, preparatory to admission. This measure taken without action of Congress.

The Committee further sought to clinch the argument with the fact that "California was admitted February 13, 1850 without an enabling act."¹⁴

The Legislature then passed a joint resolution disregarding the Governor's veto. The resolution provided for the election of delegates to a constitutional convention to be held at the City Hall in Salt Lake City on February 19, 1872.¹⁵

In Salt Lake City, a mass meeting to nominate delegates took place in the Old Tabernacle. Mayor Wells of Salt Lake City proposed and the meeting agreed that a committee of seven be appointed to select names for delegates to the convention. While the committee deliberated, Zerubbabel Snow addressed the audience upon the right of the people to petition for a state government. The committee returned, and the men selected were sustained by the meeting.¹⁶ Thomas Fitch, a non-Mormon, then closed the meeting with an impassioned speech, pledg-

¹⁴Ibid., January 31, 1872.

¹⁵The Deseret News, February 7, 1872.

¹⁶See Appendix D for a listing of Delegates to the convention of 1872.

ing his whole support in the quest for statehood.¹⁷

For the first time, non-Mormons were elected as delegates to a convention. Out of the 19 delegates elected from Salt Lake County, nine were non-Mormons.¹⁸

¹⁷The Deseret News, February 7, 1872.

¹⁸Ibid., February 14, 1872. General E. M. Barnum's name was substituted for S. Sharp Walker, when Mr. Walker declined the honor, on the grounds that he was not in favor of statehood at that time.

The Convention of 1872

The convention of 1872 differed in several respects from its predecessors. For the first time there was felt the internal influence of non-Mormons. There was debate over the immediate adjournment of the proceedings, the very name of the State, and the method of voting. Most important of all, was the introduction of polygamy as a potent political issue.

The Convention opened in the City Hall in Salt Lake City, on February 19, 1872. General E.M. Barnum, a non-Mormon, was elected President, and a permanent organization selected.¹⁹ The growing sophistication of Salt Lake was apparent from the fact that a committee was appointed to visit clergymen of each religious denomination in the city,²⁰ and request them to attend the convention each day in turn to render the appropriate prayers.

Several resolutions were adopted with regard to the order of business and rules governing the convention.

The first major issue of the convention concerned the format of the Constitution. Mr. Aurelius Miner, of Salt Lake County, was in favor of adopting the constitution of Illinois as a basis for framing

¹⁹Ibid., February 28, 1872. The other officers were Secretary-R.L. Campbell, Assistant Secretary-L. John Nuttall, Second Assistant Secretary-John Henry Smith, Doorkeepers-D.T. McAllister and Milando Pratt, Messengers-Robert S. Campbell and Brigham Carrington, Reporters-David W. Evans and John Q. Cannon, Printer-Angus M. Cannon, Fireman-Rodney Badger.

²⁰Ibid.

the new State constitution. Mr. Thomas Fitch of Salt Lake County, favored the constitution of Nevada over that of Illinois. Mr. Lorin Farr of Weber County, wanted the constitution of Deseret framed in 1862. He asserted that the constitution of Deseret had been acknowledged by the congressional committee to whom it had been submitted as one of the best. Mr. Zerubbabel Snow of Salt Lake County desired to see a constitution framed that would embody the best of all the existing state constitutions, rather than to take a single constitution as a basis.²¹ Colonel D. E. Beul of Salt Lake County, thought that the convention should not look backward into the past; he favored an up-to-date modern instrument. Mr. Joseph W. Young of Washington County thought that there was no need for much argument on the matter. It was his contention that it was easier to simply take some constitution as a basis in order to save the labor of a committee drafting one. Mr. Fitch felt that the old constitution of Deseret carried "the odor of defeat about it." This argument carried the day for Mr. Fitch. The convention approved his resolution, and 125 copies of the constitution of Nevada were ordered struck off and distributed to the members of the convention.²²

The convention learned that General P. Edward Connor, a popular choice on the "People's" ticket, had declined serving as a delegate on the grounds that he was a resident of California, and consequently, not eligible to serve.²³

The first of the convention occurred when Judge William Hayden of Salt Lake County addressed the convention, informed them that

²¹Ibid., July 2, 1862.

²²Ibid., February 28, 1872.

²³Ibid.

he did not favor statehood, and was elected as a delegate without his consent. The Judge, then moved that the convention be adjourned on the grounds that the people of the Territory had not, by the usual means, (public meetings, resolutions or petitions) declared in favor of a state government. He further declared that the population of Utah did not come up to the standard set by Congress, that insufficient population would impose heavy taxes on the new state and its citizens. As the convention had been called without Territorial or Federal authority, "its actions had no other merit than that pertaining to any popular meeting called to discuss public measures".²⁴

Colonel T. P. Akers of Salt Lake County rose to defend the convention on the supposition that statehood was clearly necessary, for it would give to Utah "a fixed and stable government, and a 'harmonized' judiciary. The new state would revitalize every channel of industry, and that to obtain the desired goal would place herself under any fundamental condition stipulated by Congress as necessary for admission."²⁵

Colonel Buel interjected a bit of humor into the proceedings, when he rose and stated in reply to Judge Hayden, that he was not unexpectedly elected to the convention, "for the moment I saw my name on the ticket I knew I would be elected for sure." The Colonel thought that admission into the Union would give Utah "peace at home and character abroad."²⁶ The argument against adjournment carried over to the

²⁴Ibid.

²⁵Ibid.

²⁶Ibid.

next day,²⁷ when Mr. Fitch addressed the assembly with a long tirade directed against Federal appointees and against Judge McKean in particular. Mr. Fitch concluded his arguments with the startling pronouncement that Mormons could believe in the doctrine of polygamy, but in order to insure statehood did not have to practice their belief.²⁸

Ex-Governor Frank Fuller, then addressed the convention refuting the reasons given by Judge Hayden as invalid. Other prominent delegates rose to address the convention, all strongly advising statehood.²⁹

On Wednesday, February 21, the debate over adjournment continued. Judge Hayden replied to his critics:

I have attempted to analyze the labored arguments and carefully prepared speeches of the gentleman and the result I have arrived at is this: I am a Gentile, Mr. President, by education and conviction, and by my actions 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. The Gentile sentiment 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.³⁰

Judge Hayden, then proceeded to defend the record of Judge McKean and to take the Mormon delegates to task for not voicing vociferous opposition to Mr. Fitch's solution to the question on polygamy.

²⁷See Appendix E for a listing of the committee members appointed.

²⁸Deseret News, February 28, 1872.

²⁹Ibid.

³⁰Ibid.

He stated:

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....³¹

Mr. Fitch then replied to Judge Hayden:

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 to stand by polygamy and McKean.³²

Colonel Akers then sought to put an end to the argument when he stated:

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.³³

Colonel Buel remarked that he also was not a Mormon, but he was an advocate of statehood, and he would be content to see the Mormons rule the state if they continued to administer it as they had heretofore. Ex-Governor Fuller again affirmed his desire to see statehood attained, stating that polygamy was tolerable if the majority of the citizens desired it. George Q. Cannon of Salt Lake County, addressed the convention, expressing his concern that "class basis" had been introduced into the meeting, finding it in very bad taste.³⁴

The motion to adjourn was then put to a vote and was defeated 93 to one. Judge Hayden rose to acknowledge defeat and to try to sway

³¹ Ibid.

³² Ibid.

³³ Ibid.

³⁴ Ibid.

the convention one last time. He stated:

Since the convention has refused to adjourn, and for fear Congress may do an unwise thing by admitting Utah, I feel it my duty as a good citizen to remain with you to the end and endeavor to engraft on the constitution such principles as I think will best subserve the interests of the whole people. They are briefly these:

1. Prohibition of polygamy hereafter with heavy penalties including disfranchisement of all political rights for a violation.
2. No taxes on the mines nor their proceeds for ten years.
3. No subsidies for railroads.
4. Minority representation in legislation and the Court of Last Resort.
5. A registration act to promote the purity of elections.
6. One term for Governor.
7. Two-thirds of a jury to constitute a verdict.
8. Equal political and civil rights for all citizens regardless of color or sex.³⁵

On the fourth day of the convention, an argument ensued over the new name for the state. Judge Enos D. Hoge of Salt Lake County moved that "Deseret" be stricken out in favor of "Utah." The motion found immediate favor, because the name "Deseret" might be made a basis for prejudice by persons opposed to statehood. However, "Deseret" found a horde of defenders, who thought its "musical sounding name" preferable to the term "Utah" which referred to "a dirty, thieving, insect-infested, grasshopper-eating tribe of Indians." The chief case for adopting "Utah" was the fact that the name was on all local maps, in public archives, and on public records. After further debate, it was decided that public prejudice against the name "Deseret" was not so strong as that against the people of the Territory. The motion to change the name of "Deseret" to "Utah" was put to the convention. It was defeated.³⁶ With the constitution of 1872, "Deseret" went for the last time to Congress.

³⁵Ibid.

³⁶Ibid.

After time was taken to observe "Washington's Birthday," the Ordinance to the constitution and the Bill of Rights were submitted to the convention for their approval. The fifth section of the Ordinance encountered the major share of criticism. It stated:

Fifth:-That such terms, if any, as may be prescribed by Congress as a condition of admission of said State into the Union, shall if ratified by a majority vote of the people thereof, at such times and under such regulations as may be prescribed by this Convention, thereupon be embraced within, and constitute a part of this ordinance.³⁷

The wordage seemed to be an open invitation for Congress to come out with a prohibitory condition concerning polygamy. The clause was chiefly the work of Mr. Thomas Fitch, who pointed out to the convention a similar procedure in the admission of Missouri in 1821. Mr. Cannon claimed that the section gave Congress the opportunity to say what terms were required for the admission of Utah. After considerable controversy, a motion to strike out the clause was put to the convention and was defeated.³⁸

During the balance of the convention, debate was concentrated around the phraseology of various articles. The Article on Suffrage originally proposed that when each voter cast his vote, his ticket should be numbered and his name written upon his ballot. This, it was claimed, would prevent ballot-box stuffing and help check rigged elections.³⁹ Colonel Akers argued that no law should be enacted whereby the ballot of any individual could be identified. Mr. Cannon felt that the Leg-

³⁷Deseret, Constitution (1872), Ordinance, sec. 5.

³⁸Deseret News, February 28, 1872.

³⁹Ibid., March 6, 1872.

islature should be free to enact any provisions regulating voting as it saw fit. Colonel Akers finally resolved the argument when he proposed that the Legislature should provide suitable legislation for the absolute freedom of the ballot, and that the secret ballot and freedom from elective restraint be guaranteed. His proposal was unanimously passed.⁴⁰

The proposed boundaries of the new state came in for much discussion. The Committee on Boundaries submitted the same boundaries as were proposed in Congress by Mr. Sargent of California.⁴¹ This took in a portion of territory from Idaho, Wyoming, and Arizona, all of which once belonged to the Territory of Utah. Though the proposed boundary was considered a very desirable one, a substitute offered by Mr. Fitch was accepted proposing that the boundary of the "State of Deseret" if Utah be admitted should be the same as that of the present Territory of Utah.⁴²

The final day of the Convention, February 30, 1872, witnessed the nomination of George Q. Cannon, Thomas Fitch, and Frank Fuller as delegates to bring the new memorial and constitution to Washington.⁴³

A motion for a new census was adopted, and the memorial to Congress received and read. The memorial set forth its principal argument in the insufficiency of a Territorial government for Utah's needs. The memorial pointed out that every important civil action was liable to be appealed to the United States Supreme court where its final decision might be delayed for years, while every act of the Legislature escaping the absolute veto of the Governor was subject to the supervi-

⁴⁰Ibid.

⁴¹Deseret, Constitution (1872), Art. 14.

⁴²Deseret News, March 6, 1872.

⁴³Ibid.

sory legislation of Congress. Further, because the Legislature of the Territory of Utah had been denied power to create or organize courts of original jurisdiction, and because the courts provided by Congress were insufficient, court cases piled up on the judicial docket.⁴⁴

The memorial also pleaded the case for statehood. It stated that "a Territorial or colonial system, under which a government is provided by a remote power and without the consent of the governed is inherently oppressive and anti-republican."⁴⁵

The convention was then addressed by Mr. Frank Fuller and several other delegates who praised the work of the convention. President Barnum closed the remarks by declaring the convention closed.⁴⁶

The delegates, in framing and adopting the constitution, were aware of the nation's concern with polygamy. They knew that it would have been useless to petition Congress for admission without granting some safeguards against polygamy. The feeling was that there would be no safety for the Mormons without a state government, and that there could be no state government for Utah, unless they made some concession, for the moment, to the bigotry of the people in Washington.

The constitution that was written differed in many respects from previous ones. The Declaration of Rights included trial by jury, with a three-fourths vote constituting a verdict in civil cases.⁴⁷ Religious liberty was guaranteed.⁴⁸ For the first time, slavery was

⁴⁴Deseret, Memorial (1872), p. 3.

⁴⁵The Deseret News, March 6, 1872.

⁴⁶Ibid.

⁴⁷Deseret, Constitution, (1872), Art. 1, sec. 3.

⁴⁸Ibid.

prohibited,⁴⁹ and no religious test was required to hold public office.⁵⁰

The boundaries took the form that was to serve until Utah entered the Union in 1896.

For the first time, the franchise was extended to women on the state level,⁵¹ and the Legislature was to provide for the secret ballot.⁵²

The constitution followed the traditional distribution of powers by providing for the usual three departments of government.⁵³

The legislative article followed the trends of past constitutions by providing for a bicameral legislature.⁵⁴ The number of Senators was set at 13, and the number of Representatives at 26, with the proviso that the eventual numbers of Senators was not to exceed 30, and the number of Representatives never less than twice the number of Senators.⁵⁵ For the first time, provision was made in the constitution for the Legislature to be compensated for their labors.⁵⁶ New also, was the clause that Congressional and Legislative apportionment would be based upon population.⁵⁷

Following along with the fifth section of the Ordinance which pointed up the liberal influences in the convention; the constitution

⁴⁹Ibid., Art. 1, sec. 17.

⁵⁰Ibid., Art. 1, sec. 21.

⁵¹Ibid., Art. 2, sec. 1.

⁵²Ibid., Art. 2, sec. 4.

⁵³Ibid., Art. 3.

⁵⁴Ibid., Art. 4, sec. 1.

⁵⁵Ibid., Art. 4, sec. 5.

⁵⁶Ibid., Art. 4, sec. 23.

⁵⁷Ibid., Art. 1, sec. 13.

contained an article that cautioned the new State to follow a policy of impartiality in the field of education.⁵⁸

The Governor's term of office was reduced from the four year term of previous constitutions to a two year term.⁵⁹

The article dealing with the judiciary followed past constitutions by providing for a Supreme Court, circuit courts, probate courts, and, for the first time, municipal courts, to be established in incorporated cities along with justice of the peace courts.⁶⁰ Circuit court judges were to be elected by popular election instead of by the General Assembly as had been the custom in the past.⁶¹ The circuit court judges were also to constitute the Supreme Court.⁶² Judicial circuits were reduced to four in number.⁶³

Non-Mormon influence can be seen in the article on taxation, which provided that all men were to be taxed equally, and special exemptions were made for mines, and mining claims, and protection provided for the miners, who were chiefly non-Mormon.⁶⁴ And, above all, the constitution provided for the abolishment of polygamy.

The constitution of 1872 was a highly comprehensive and more complicated document than those of previous years, and it was to form the basis of the constitutions of 1882 and 1887.

⁵⁸Ibid., Art. 11, sec. 2.

⁵⁹Ibid., Art. 5, sec. 2.

⁶⁰Ibid., Art. 6, sec. 1.

⁶¹Ibid., Art. 6, sec. 2.

⁶²Ibid., Art. 6, sec. 3.

⁶³Ibid., Art. 6, sec. 6.

⁶⁴Ibid., Art. 10.

The Aftermath

The constitution was submitted to the people of the Territory who sustained it by a vote of 25,160 to 365. For the first time negative votes were recorded in a general election.⁶⁵

On April 4, 1872, the legislature of the "State of Deseret" met to discuss the progress of the memorial in Congress. The meeting concluded with the proviso to meet again on the third Monday in the month succeeding that in which "Deseret," by Act of Congress and Presidential proclamation should be admitted into the Union.⁶⁶ With its adjournment, "Deseret" faded into the past.

In Washington, the Senate Territorial Committee in face of a splurge of anti-Mormon legislation and memorials sent by anti-statehood advocates from the Territory,⁶⁷ ignored the pleas of Delegates Fitch and Cannon, that Utah was ready for statehood. No arguments had any force towards overcoming that fundamental problem and national conviction, the impossibility of the existence of a viable theocracy inside a genuine democracy. Once again, Congress refused to act upon the petition from Utah.

⁶⁵See Appendix F for election returns.

⁶⁶The Deseret News, April 10, 1872.

⁶⁷The Voorhees Bill and the Wheeler anti-Mormon and anti-Women Suffrage Bill.

CHAPTER V

THE CONVENTION OF 1882

The Interim Period from 1872 to 1882

Another 10 year period was to elapse before the citizens of the Territory under the stress of harsh pressures, would make yet another attempt at achieving statehood.

The refusal of Congress to recognize "Deseret's" bid to gain Federal recognition led to an atmosphere laden with judicial restraints; the overbearing prosecutions of Judge McKean lasted until his removal from office in 1875. The Poland Act of 1874 led to the conviction of a large number of polygamists by removing the judicial proceedings from the sheltered atmosphere of the Mormon-orientated probate courts to the sterner Federal courts.

The Panic of 1873 brought a period of depression to the nation. The Territory's economy fluctuated. Mining, ranching and dry farming developed into leading commercial enterprises.

On August 29, 1877, the leader of Mormonism passed away, turning the keys of leadership to lesser known, but capable men.

In politics, the Liberal Party sank its roots into the affairs of the Territory and made its voice heard. Though the Liberal Party was in the minority, it possessed some of the abler men in the Territory, and its position on the question of polygamy and the breaking up of the Mormon Church's supposed theocratic grip upon the Territory received a great deal of publicity in the press of the nation.

The Cannon-Campbell fight to see who would represent Utah on the floors of Congress left Utah with no representative until the election of John T. Caine in 1882.

The passage of the Edmund's Bill declared polygamy a felony punishable by fine and imprisonment. The Bill also provided for a commission to oversee electoral proceedings in the Territory. The establishment of "test oaths" by the commission led to the disfranchisement of thousands of voters. Matters had come to a head, and the adherents of the statehood movement once again came forward to try to break the stranglehold of the Federal Government over the Territory.

The Pre-Convention Period

The path leading to a new attempt at gaining admission into the Union was initiated by Councilor Daniel H. Wells in the Territorial Legislature on February 21, 1882, when he presented the following resolution:

Resolved, the House of Representatives concurring, that in view of the legislation now being presented to Congress having for its object the depriving of citizens of this Territory of rights and liberties dearer to them than life, there be appointed a select committee of seven members of the Council and thirteen of the House to take into consideration the political situation of the Territory, of double the number of their representatives in the present legislature to assemble in Salt Lake City at an early day to adopt a State Constitution for Utah and calling a session thereof to provide for the election of Senators and Representatives to the Congress of the United States, who shall demand of the general government, for the Territory of Utah, a republican form of government as guaranteed by the Constitution of the United States, which declares: The United States shall guarantee to every State in this Union, a republican form of government.¹

On February 23rd, "A Resolution in relation to a Constitutional Convention," was taken up by the Council, passed, and sent on the House of Representatives.² On February 26th, the House adopted the "Resolution," and initiated (HR 10), a "Memorial" to Congress, petitioning statehood, for the Territory.³ The House followed Councilor Well's recommendation by appointing a 13 man committee⁴ to investigate the

¹Council Journal of the Legislative Assembly of the Territory of Utah. Twenty-Fifth Session. (Salt Lake City, 1882) February 21, 1882.

²Ibid., February 23, 1882.

³Ibid., February 25, 1882.

⁴Ibid., The committee consisted of Lorin Farr, Charles W. Penrose, James Sharp, Edward Partridge, William P. Preston, Edward Dalton,

atmosphere of the Territory in regard to the calling of a convention. When the Council concurred on the "memorial" to Congress, a thousand copies were ordered printed, to be distributed to the President and other highly placed officials and persons of influence.⁵

On March 15, 1882, the Legislature issued a joint resolution calling for the election of delegates to a constitutional convention to meet in the City Hall in Salt Lake City on April 10, 1882.⁶

The Mormons held to the concept that it was not only polygamy that the Federal Government wanted abolished, but the breakup of the Church's hold on the Territory as well. An editorial in the Deseret News, conveyed the general feeling when it stated:

We do not believe that if the Latter-day Saints were to publicly renounce plural marriage as a part of their religious system Utah would be a step nearer to statehood than she is today. Another pretext would be advanced, other concessions would be demanded. The conflict wages against them by the bogus priesthood of Christendom would be continued. Nothing can be plainer than that war against Utah, is a religious crusade. But it is aided and abetted by political adventurers whose only chance of office and its pickings is in the present Territorial System.⁷

⁵Ibid.

⁶Utah, Constitution (1882). pp. 1-2.

⁷The Deseret News, April 19, 1882.

The Convention of 1882

The convention opened at 12:00 p. m., in the City Hall in Salt Lake City on April 10, 1882. Joseph F. Smith of Salt Lake County was elected President, and a permanent slate of officers chosen.⁸ The first task was that of examining the credentials of the delegates to the convention. All were found in order.⁹ The balance of the day's business was taken up in selecting the various standing committees that were to do the real work of the convention.¹⁰

On Tuesday, April 11th, a motion to adjourn the convention until the following October was made and lost. The details of the permanent organization were discussed and worked out.¹¹

The following day, April 12th, an argument developed over the length of time needed to carry out the work of the convention. To expedite the proceedings, a general committee of 13 was organized to revise and consolidate the work of the standing committees.¹² Dan-

⁸Utah, Constitution (1882). Journal of Proceedings. The permanent officers, included: Vice-President-Leonard E. Harrington and Edward Dalton, Secretary-Arthur Stayner, Assistant Secretary-Junius F. Wells, Chaplain-William W. Cluff, Sergeant-at-Arms-B.Y. Hampton, Messenger-Milando Pratt.

⁹See Appendix G for a listing of delegates to the Convention of 1882. For the first time women were selected: they were Emmeline B. Wells, Sarah M. Kimball, Elizabeth B. Wells of Salt Lake County, and Alma Eldredge of Summit County.

¹⁰Utah, Constitution (1882). Journal of Proceedings. See Appendix G for a listing of the members of the standing committees.

¹¹Ibid., February 11, 1882.

¹²Ibid., February 12, 1882. See Appendix H for the list of members of the committee.

iel H. Wells, Chairman of the committee, wanted all the delegates who felt the work could not be accomplished in time to resign and let their alternates replace them.¹³

Since the convention began its meetings only 19 days after the passing of the Edmunds Act, which greatly strengthened the laws against polygamy, Mr. Wells expressed great concern that the Territory might soon find itself in a state of anarchy. His fears were based on the opinion that the Act would cause the vacating of all the offices in the Territory held by Mormons. He was in favor of the convention "taking up the reins of government" until "a steady government" could be organized. Mr. Ben Sheeks, a non-Mormon delegate from Salt Lake County, objected to Mr. Well's line of thinking on the grounds that it did not represent the true feelings of the convention. He further stated that it would be "absolute suicide" for the convention to take any other steps than to frame a constitution and a memorial petitioning admission into the Union. Mr. John Rawlings of Salt Lake County, echoed Mr. Sheek's sentiments; he was not "willing to set up a revolution," for he was certain that "the nation would overpower such an action." The argument abated when Mr. Wells conceded that the framing of a constitution and a memorial to Congress was the only task of the convention.¹⁴

The balance of the convention concerned itself with the framing of the constitution, turning their work over to the General Committee to consolidate. On February 25, 1882, the General Committee presented the constitution to the convention, and recommended that a committee of

¹³The Deseret News, April 12, 1882.

¹⁴Ibid.

five be appointed to superintend the details of the election for the ratification of the constitution.¹⁵

On February 26th, there was a brief debate concerning the merits of substituting the name of "Deseret" for that of "Utah" as the title of the new State. The same arguments that were used with success in 1872 were tried once again, but this time the motion was defeated.¹⁶ The convention then went into a Committee of the Whole, the constitution was read three times by its title and approved by a vote of 59 to zero.¹⁷ Three engrossed copies were ordered prepared for the members to sign, and 5,000 copies of the constitution, the list of delegates and their committees and a brief record of the proceedings were ordered printed. The President nominated a committee to prepare a memorial to Congress. The convention then adjourned until June 6, 1882, to await the ratification of the constitution on May 22nd.¹⁸

The constitution differed slightly from the constitution of 1872. The Edmonds Act had made some of the delegates defiant; there was no ordinance giving Congress an opening to provide conditions prohibiting polygamy.¹⁹

The Declaration of Rights was directly copied from that of 1872. The constitution again featured female suffrage and, for the

¹⁵Utah, Constitution (1882), Journal of Proceedings, April 25, 1882.

¹⁶The Deseret News, April 29, 1882.

¹⁷Utah, Constitution (1882), Journal of Proceedings, April 26, 1882. There were 13 delegates absent.

¹⁸Ibid., See Appendix H for the members of the Memorial Committee.

¹⁹Deseret, Constitution (1872), Ordinance, sec. 5.

first time provided directly for the secret ballot.²⁰ The distribution of powers; the makeup of the legislature; the tenure and powers of the executive were the same as written into the constitution of 1872.

The judiciary article also followed the same pattern as that of 1872 with the one exception, that the number of judicial circuits was reduced from four circuits to three.²¹

Another change is to be found in the article dealing with miscellaneous items. Among the many sections is one prohibiting women from serving as jurors.²² It was considered that they were too easily influenced and judged matters with their hearts and not their heads. This same argument was to raise a storm of controversy in the debates over women suffrage in the convention of 1895.

The influence of non-Mormons can be seen in the articles dealing with education and taxation. In the field of education, the constitution called for the establishment of a free public school system; with the teaching of sectarian doctrines prohibited in any school supported in whole or in part by public funds.²³ In the field of taxation, mines bearing precious minerals were to be exempt from taxation for a period of 10 years.²⁴

On May 22, 1882, a large turnout approved the constitution by

²⁰Deseret, Constitution (1882), Art. 2, sec. 3.

²¹Ibid., Art. 6, sec. 5.

²²Ibid., Art. 15, sec. 12.

²³Ibid., Art. 11, sec. 1.

²⁴Ibid., Art. 10.

a vote of 27,184 to 498.²⁵ On June 6th, the convention reconvened. The Election Committee reported the returns of the May 22nd election, and the constitution was declared adopted by President Joseph F. Smith.²⁶ Seven delegates were then chosen to convey the constitution and the memorial to Congress.²⁷ The memorial presented the same basic arguments that were rejected by the Congress, when they were presented in the Memorial of 1872.²⁸

²⁵Ibid., Journal of Proceedings, June 6, 1882. See Appendix I for election returns.

²⁶Ibid.

²⁷Ibid., June 7, 1882. The delegates chosen were: William H. Hooper, John T. Caine, James Sharp, W. W. Riter, F. S. Richards, D. H. Peery, and W. D. Johnson.

²⁸See Chapter IV, p. 48.

The Aftermath

On June 28, 1882, the delegates from Utah presented to Congress the memorial petitioning for statehood. The Speaker of the House ordered the constitution and memorial printed and turned over to the Committee on Territories for further action during the next session of the Congress.²⁹

On December 20th, Senator Alvin Saunders of Nebraska, presented a bill (S 2272) providing for "the Admission of Utah as a State in the Union" which was referred to the Committee on Territories.³⁰

On February 23, 1883, Senator Wilkinson Call of Florida presented the memorial to the Senate. He also asked for the repeal of some of the more rampant sections of the "Edmunds Act," and protested against the injustices of other "anti-Mormon" legislation then pending in Congress.³¹ The memorial was referred to the Committee on Territories and ordered printed in the record. However, no further favorable action was taken.³²

On December 11, 1883, Mr. John T. Caine, the delegate from Utah, introduced a bill (H. R. 1709) for "the Admission of Utah on an equal footing with the original States," which was referred to the Com-

²⁹The Deseret News, July 19, 1882.

³⁰U.S., Congressional Record, 47th Cong., 2nd Sess., 1882, XIV, Part 1, 457.

³¹U.S., Congressional Record, 47th Cong., 2nd Sess., 1882, XIV, Part 4, 3171.

³²Ibid., 3177.

mittee on Territories, where once again no further action was taken.³³

³³U. S., Congressional Record, 48th Cong., 1st Sess., 1883, XV, Part 1, 122.

CHAPTER VI

THE CONVENTION OF 1887

The Interim Period from 1883 to 1887

The period from 1883 to 1887 represents the height of Federal suzerainty in the Territory. Thousands of voters were disfranchised by a "test oath" which required the prospective voter to swear that he was not a polygamist, bigamist, or guilty of unlawful cohabitation, or even in sympathy with these practices.

The arrival of Chief Justice, Charles S. Zane in the Territory in 1884, intensified the campaign against the polygamists. Prosecutions centered around the misdemeanor clause of the "Edmunds Act." The more prominent Mormon leaders were forced into hiding with a price on their heads. Tempers were triggered to a white heat, and dissension broke out in Salt Lake City between Mormons and non-Mormons.

The "Edmunds-Tucker Act" of 1887 staggered the Mormons. The Latter-day Saints Church was disincorporated, and most of its property confiscated. Female suffrage was abolished as was the Perpetual Emigration Fund Company. The Utah Commission was continued in office, and a "test oath" was required of citizens before they could vote, hold elective office, or serve on juries. An attempt at statehood was imperative to offset the continuous hammering away by the Federal Government.

The Pre-Convention Period

With the political situation placing great pressures upon the Mormon Church, the enactment of the "Edmunds-Tucker Act" made the situation desperate. A try for statehood was once again initiated. The Territorial Central Committee of the People's Party called for a series of conventions to elect delegates to a state convention for the purpose of writing a new constitution and memorial petitioning Congress for admission into the Union.¹ A committee of five² was appointed to initiate conventions in the counties within the Territory, to select delegates to the proposed convention. The central committees of all the political parties in the Territory were invited to participate with the understanding that if they would cooperate in the venture, each party would receive recognition and would be accorded a fair quota of representatives in the convention.³

In Salt Lake City, the convention to elect delegates was held in the Theater, and the assembled crowd quickly selected their representatives to the convention.⁴

The Deseret News called the step to hold a convention without legislative initiative "a popular political movement," when it stated:

¹The Deseret News, July 22, 1887.

²Ibid., The committee consisted of John T. Caine, S.R. Thurman, Alma Eldredge, George W. Thatcher, and R.W. Heybourne.

³Ibid.

⁴Ibid., July 29, 1887.

The action taken by the leaders of the People's party to obtain an expression of the popular will in regard to Statehood for Utah should be generally understood. It is a purely political movement. It comes from the representatives of the very large majority of the people in the capacity of citizens. It matters not if most of them belong to the same Church or other organizations, social benevolent, educational or ecclesiastical. It is not in that position or relationship that they move in this matter. They moved as citizens of the United States and of the Territory of Utah, desirous of obtaining these rights and privileges that appertain to citizenship in its fullest and most rational character.

This is not a sectarian movement, neither is it merely a party movement in a political sense. It started with the People's Central Committee, because they speak for the great mass of the citizens. But it is intended for all without respect to distinction of party, creed or class. So we understand it, so it should be understood by every body because that is the fact.⁵

⁵Ibid.

The Convention of 1887

The convention was called to meet at the City Hall in Salt Lake City, the site of previous attempts at statehood, on June 30, 1887.⁶ The legislative chamber of the City Hall was dressed up for the occasion. A large American flag was hung over the main stand. Above the flag was a white star fringed with gold and decorated with the stars and stripes. On the white ground of the star was the inscription in red and blue letters "Utah a State," and on either side of the stand was hung a large map of Utah.⁷

The convention was called to order by Mr. John R. Winder, the Chairman of the Territorial Central Committee of the People's Party. The credentials of the delegates were approved by the Committee on Credentials,⁸ and a permanent slate of officers elected.⁹

Mr. John T. Caine, the newly elected President addressed the convention and pointed out the obstacles to statehood that must be overcome. He stated that they must be met freely and frankly.¹⁰

The first debate on the convention floor took place over the

⁶Ibid., June 22, 1887.

⁷Ibid., July 6, 1887.

⁸Ibid., See Appendix J for a list of delegates to the Convention of 1887.

⁹Ibid., The permanent officers included:-President-John T. Caine, First Vice-President-E.G. Woolley, Second Vice-President-J. T. Hammond, Secretary-H.M. Wells, Assistant Secretary-Robert W. Sloan, Sergeant-at-Arms-Thomas Harris, Messenger-Heber S. Cutler.

¹⁰Ibid.

oath to be administered to the delegates. Mr. John E. Booth of Utah County objected to the part of the oath that included all the provisions of the "Edmunds-Tucker" test oath. However, Mr. Booth found little sympathy from the majority of the delegates; the consensus of opinion was that the Country expected something to be done to place Utah more in harmony with the Nation, and that the convention might as well face reality and try to get the work done. Mr. Booth's motion was defeated.¹¹ Mr. Booth then moved that the Constitution of 1882 be taken as basis on which to write the new one. This time he was more successful, and his motion was carried.¹²

On Friday, July 1st, the various standing committees were appointed,¹³ and the President assigned to each committee an appropriate section of the constitution to work on.¹⁴

On July 2nd, the freedom of the convention was extended to the various state and county and municipal officials, members of former conventions and to members of the press.¹⁵ Mr. W. W. Riter of Salt Lake County brought up the question of minority representation; the subject was assigned to a committee for study.¹⁶ The various committees then reported, and the convention went into a Committee of the Whole to consider the proposed constitution.¹⁷

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

The proposed constitution differed from the Constitution of 1882 in that it took a strong stand for the separation of Church and State. The union of Church and State and the domination of the State by any church was expressly forbidden.¹⁸ The right of suffrage was extended only to the male voter,¹⁹ following the lead of the then current Federal legislation. The boundaries defining the new State were the same as they had been in previous years.²⁰ However, the attention of the convention was centered on Article Fifteen which treated the all-important topic of abolishing polygamy. The Article stated:

sec. 12 - Bigamy and polygamy being considered incompatible with a republican form of government, each of them is hereby forbidden and declared a misdemeanor. Any person who shall violate this section shall, on conviction thereof, be punished by a fine of not more than one thousand dollars and by imprisonment for a term of not less than six months nor more than three years, in the discretion of the court. This section shall be construed as operative without the aid of legislation, and the offenses prohibited by this section shall not be barred by any statute of limitations within three years after the commission of the offense; nor shall the power of pardon extend thereto until such pardon shall be approved by the President of the United States.²¹

To add more strength to the section abolishing the practice of polygamy, it was further stated in Article Sixteen:

Provided; That section 12 of Article XV shall not be amended, revised or in any way changed until any amendments, revisions or change as proposed therein shall, in addition to the requirements of the provisions of this article, be reported to the Congress of the United States and shall by Congress approved and ratification be proclaimed by the President of the United States and, if not so ratified and proclaimed said section shall remain perpetual.²²

¹⁸Utah, Constitution (1887), Art. 1, sec. 3.

¹⁹Ibid., Art. 2, sec. 1.

²⁰Ibid., Art. 14.

²¹Ibid., Art. 15, sec. 12.

²²Ibid., Art. 16.

Other additions to the Constitution were to be found in the legislative area. The Governor was given the power to veto separate items in an appropriated bill without vetoing the whole bill, subject to a two-thirds vote of the Legislature.²³ In the judiciary, the Territory was divided into four judicial circuits,²⁴ and the Legislature could provide that five-sixths of a jury may render a verdict in civil action.²⁵ In the inferior courts, a jury could consist of less than 12 members.²⁶ In education, it was provided that in the public schools, no teacher should be employed or rejected on account of his religious faith or his sympathy with any particular denomination.²⁷ The article on Public Institutions provided for a house of correction for juvenile offenders.²⁸

While the convention was still considering the constitution, Mr. Winder offered a successful resolution requesting that the Utah Commission provide means whereby the qualified electors of the Territory might vote on the constitution.²⁹ The question of minority representation was dealt with when the convention voted to strike out all reference to minority representation.³⁰

Once again, the motion was entertained to change the name of

²³Ibid., Art. 4, sec. 24.

²⁴Ibid., Art. 6, sec. 5.

²⁵Ibid., Art. 1, sec. 5.

²⁶Ibid., Art. 1, sec. 6.

²⁷Ibid., Art. 6, sec. 2.

²⁸Ibid., Art. 8, sec. 2.

²⁹The Deseret News, July 13, 1887.

³⁰Ibid.

the State from "Utah" to "Deseret," and it was defeated overwhelmingly.³¹

The question of minority representation still rankled some members who were not satisfied with the action taken by the convention. Mr. O. C. Snow of Box Elder County, moved that an amendment be inserted into the constitution, prescribing that "the Legislature shall provide by law for minority representation." The motion lost by a vote of 33 to 10,³² and no further debate was heard on the subject.

On July 7, 1882, the Convention adopted the constitution and adjourned. F. S. Richards of Salt Lake County, E. G. Woolley of Washington County, and W. W. Riter of Salt Lake County were appointed as delegates to present the application for admission to Congress.³³

The Deseret News commented on the convention's action regarding the bigamy and polygamy provision by stating:

Under the former condition of affairs in this Territory, it is probable that no such action as that of the present convention would have been taken. The most active men in movements of this character could not consistently take such a step, because they were asked to prohibit. The members of the present convention are free from those conditions. They have taken the oath required by Congress in regard to the practice condemned by national statute, and their course is now in line with the oath and the conditions understood to be imperative on the part of the authorities and great masses of people of this nation. They have acted, as we heretofore explained, entirely in a political capacity. They have entered into no compacts, formulated no agreements, made no compromises of a religious nature or any other nature.³⁴

The anti-polygamy provision was written in such a way as to alleviate fears that a pro-Mormon Legislature could make it impractical by appropriate legislation. It was also feared that after Utah achieved Statehood, the law could be amended, or that the State Gov-

³¹Ibid.

³²Ibid.

³³Ibid.

³⁴Ibid.

error might pardon offenders, thus rendering the law ineffectual. To counter these objections, the section was made ironclad by the proviso that no amendment could be made on this one question without the consent of Congress and the President, and that the endorsement of the President was necessary to make a pardon effective.³⁵

³⁵Utah, Constitution (1887), Art. 15, sec. 12.

The Aftermath

On August 1, 1887, the constitution was submitted to the people of the Territory for ratification. The "test oath" demanded by the "Edmunds-Tucker Act" kept the number of voters down, but the constitution received 13,195 votes in its favor and only 502 votes in opposition.³⁶

Governor Caleb W. West, in his "annual Report" that October, expressed his doubts that the Territory was yet ready for statehood. He cited that statehood could mean the loss of territorial political control for the Mormon Church, and in face of the long history of Mormon antagonism with others, he was uncertain if they could support their avowals to abolish the practice of polygamy.³⁷

On October 1887, the convention reconvened to draft a memorial to Congress.³⁸ The Utah delegation presented the memorial and constitution to the President pro tem of the Senate on December 6, 1887.³⁹ On December 19th, the President of the Senate presented the memorial and constitution to the Senate for consideration. Senator Wilkinson Call of Florida moved to print the memorial in the record. Senator Algernon S. Paddock of Nebraska objected, and said that he distrusted anything from the Mormon Church. Senator Call replied that the memor-

³⁶The Deseret News, August 24, 1887. See Appendix K.

³⁷Ibid., October 26, 1887.

³⁸Ibid., October 5, 1887.

³⁹Ibid., December 21, 1887.

ial of 200,000 citizens ought to be heard whoever they are.⁴⁰ On December 20th, Senator Call circumvented argument by reading the memorial into the record. His utterances received bitter commentary from Senator Paddock and Senator George F. Edmunds of Vermont, the author of the "Edmunds Act."⁴¹

In Utah, Governor West was still expressing his doubts that the Territory was ready for statehood. In his "annual Report" in January he stated:

Following upon the heels of this under a call of their Territorial Committee, the representatives of the Mormon people assembled in convention, adopted a constitution for a State Government, proclaiming the divorce and separation of the Church and State. The Mormon people publicly at the polls ratified the action of their representatives, signifying their approval of the announcement sundering the ties between Church and State and the dethronement of the supremacy of the former over the latter. Brave, wise words these are, and the keeping of their promise to the hope, will bring much prosperity and happiness to this people. I cannot, however, flatter them with the hope or encourage them to believe, that upon the strength of these avowals the Territory ought to or will be cloaked with statehood and admitted into the Union of States. It is not an easy task, try they ever so hard, for a people to ignore teachings which for years they have been wont to accept, and free themselves from influences to which they have been willingly subject.

This is not rendered easier that both have partaken of a religious character. The question is not of words and promises but strike deeper. Benefits ought not and will not accrue from declarations alone. The expressed determination of this people must have been realized, become a fact accomplished, ere they can hope to enjoy the fruits to result from their promised action.⁴²

Another facet hindering the admission of Utah was the presidential campaign of 1888. Democratic Utah's admission was tied in

⁴⁰U.S., Congressional Record, 50th Cong., 1st Sess., 1887, XIX, Part 1, 85.

⁴¹Ibid., 118.

⁴²Council Journal of the Legislative Assembly of the Territory of Utah, Twenty-Eighth Session. (Salt Lake City, 1887) January 9, 1887.

with the admission of the Republican Dakotas, who possessed twice the population of Utah. The Democrats would think twice before allowing so many electoral votes to come in against them, as they did when they admitted Republican Colorado in 1876, thus losing the presidential election of that year.⁴³

On February 18, 1883, by invitation of the Senate Committee on Territories, F. S. Richards of the Utah delegation presented the case for Utah. Delegate Dubois of Idaho spoke in opposition to admission.⁴⁴ On March 16th, Senator M. C. Butler of South Carolina submitted a bill (S 2406) to provide for "the Admission of the State of Utah in the Union," and it was referred to the Committee on Territories.⁴⁵

On March 26th, the Senate Committee on Territories gave its report concerning statehood for Utah:

That it is the sense of the Senate that the Territory of Utah ought not to be admitted into the Union as a State until it is certain beyond doubt that the practice of plural marriages, bigamy, or polygamy, has been entirely abandoned by the inhabitants of said Territory, and until it is likewise certain that the civil affairs of the Territory are not controlled by the priesthood of the Mormon Church.⁴⁶

⁴³The Deseret News, December 23, 1887. From "Washington Comments."

⁴⁴Ibid., February 23, 1888.

⁴⁵U.S., Congressional Record, 50th Cong., 1st Sess., 1888, XIX, Part 3, 2136.

⁴⁶U.S., Congressional Record, 50th Cong., 1st Sess., 1888, XIX, Part 2, 2391.

CHAPTER VII

THE CONVENTION OF 1895

The Interim Period from 1888 to 1894

With Congress showing no intention of giving up control of the Territory, the struggle over polygamy continued until 1890, when a milestone was reached. President Wilford Woodruff issued a manifesto which advised all members of the Mormon Church to forego the practice of polygamy. In October of the same year, the manifesto was ratified at a general conference of the Church. The decision was met with mixed emotions by both Mormons and non-Mormons in the Territory. Governor Arthur L. Thomas expressed his doubts that the teaching of generations could be expurgated by a mere statement; however, Judge Zane recommended that further anti-Mormon legislation pending in Congress be cancelled. President Grover Cleveland, after a period of deliberation, pardoned all polygamists, and restored their civil rights.

The yielding of the Mormons to Federal pressures lost the People's Party political control of Ogden and Salt Lake City in 1889 and 1890. The Liberal Party gained control. In 1891, the People's Party disbanded, and its members divided along national party lines. The Liberal Party followed suite in 1893.

With the questions of polygamy and Church control of territorial politics a dead issue, the dissentient forces in Utah came out for statehood.

In September 1893, Utah's delegate to Congress, Mr. John L. Rawlins, introduced an enabling bill in the House calling for the admission of Utah into the Union. On October 2nd, Governor West, in his "Annual Message" came out in favor of statehood. On December 10th, the House passed the Rawlins bill, the Senate following suite on July 10, 1894. President Cleveland signed the "Act to enable the people of Utah to form a constitution and State government, and to be admitted into the Union on an equal footing with original State," on July 23, 1894. The long struggle was soon to be over.

The Pre-Convention Period

After 45 years of frustration, the Territory of Utah was finally authorized by the Enabling Act signed by President Cleveland on July 23, 1894, to call a constitutional convention. The Enabling Act laid down certain conditions that had to be satisfied. The Act required that all qualified voters were to be allowed to vote for delegates to the convention.¹ The convention was to consist of 107 delegates, apportioned among the various counties of the proposed State.² The convention was to accept the Constitution of the United States,³ and form a State government with a republican-styled constitution making no distinction in civil or political rights on account of race or color.⁴ They were to surrender all public lands and guarantee that Indian lands would remain forever under the jurisdiction of the United States.⁵ Territorial debts were to be retained by the State,⁶ and a system of free public schools was to be established and maintained.⁷

¹Official Proceedings of the Constitutional Convention for the State of Utah, (Salt Lake City, 1898), p. 1. sec. 1, of the Enabling Act.

²Ibid., p. 4. Sec. 1, of the Enabling Act.

³Ibid., p. 4. Sec. 3, of the Enabling Act.

⁴Ibid., p. 4. Sec. 3, of the Enabling Act.

⁵Ibid., p. 4. Sec. 3, of the Enabling Act.

⁶Ibid., p. 5. Sec. 3, of the Enabling Act.

⁷Ibid., p. 5. Sec. 3, of the Enabling Act.

In the election of 1894, to choose a delegate to Congress and to the constitutional convention, the decision was made along national party lines. Mr. Frank J. Cannon, a Republican, defeated Mr. Joseph L. Rawlins, the Democratic incumbent. The Territory had unexpectedly followed the national trend and had gone Republican, though the Democrats had been mainly responsible in leading Utah into the Union. The Republicans elected 60 out of the 107 delegates to the convention, a majority of 16 which gave them the right to organize the convention.⁹

Despite the Territory's going Republican, the Democratic administration reassured the worried political leaders in Utah, that it was the avowed policy of the Democratic Party to admit Utah before the end of the current Congressional session.¹⁰

⁸Ibid., p. 8. Sec. 18, of the Enabling Act.

⁹Roberts, op. cit., VI, p. 316.

¹⁰Ibid., p. 322.

The Convention of 1895

The convention delegates,¹¹ elected under the Enabling Act of 1894, met in the City Hall in Salt Lake City, on March 4, 1895.

The convention was to have been officially opened by President Woodruff of the Mormon Church, who was unable to appear. The honor went to Mr. George Q. Cannon, a delegate and a leading citizen.¹²

Governor West was the first to address the convention. His short speech, calling the occasion a "Red Letter Day" for Utah, praised the citizens of the Territory for their industry and perserverance. He further stated, that the Federal government had placed a great trust and responsibility in their hands, but he believed they could do the job well.¹³

Mr. James N. Kimball of Ogden, was elected as temporary President.¹⁴ The convention then proceeded to elect its permanent officers, taking three days to accomplish the task. Mr. John Henry Smith of Salt Lake City, was chosen President.¹⁵ A committee on standing committees

¹¹See Appendix L for a list of delegates to the Convention of 1895.

¹²Official Proceedings, op. cit., p. 9.

¹³Ibid., pp. 10-11.

¹⁴Ibid., p. 11.

¹⁵Ibid., p. 40. The other officers were, Secretaries-Parley P. Christensen and C.S. Rapp, Enrolling and Engrossing Clerk-Joseph A. Smith, Sergeant-at-Arms-R. Clawson, Messenger-Thomas S. Watson, Watchman-Bruce Johnson, Janitor-J.N. Scott, Pages-John H. Thorn and L.C. Camp, Committee Clerks-Miss B.T. MacMasters and Miss Henrietta Clark.

had been appointed to select the various members of the standing committees. The committee appointed 26 standing committees to carry out the basic work of the convention.¹⁶

The first of the committees to report was the committee on furniture. They informed the convention that there were insufficient seats for the delegates. Mr. David Evans of Ogden, proposed that in the selection of seats, all those delegates over 60 be given their choice; this would help keep peace and harmony among the delegates. The remaining delegates would draw for their seats by lot.¹⁷

On March 11th, the committee on rules recommended that the usual rules governing conventions be adopted.¹⁸

The first problem which caused a long series of debates that was carried on during the stay of the convention, was the problem of prohibition. Mr. Joseph R. Murdock of Charleston, in Wasatch County, introduced the first of a series of petitions asking that a prohibition clause be inserted into the constitution.¹⁹ The subject was referred to the committee on manufacture and commerce. On April 19th, the chairman of the committee, Mr. Joel Ricks of Salina in Sevier County, reported that the matter of prohibition be taken care of by the State Legislature.²⁰ A minority report wanted the question submitted

¹⁶Ibid., pp. 65-67 See Appendix M for a list of the members of the standing committees.

¹⁷Ibid., p. 72.

¹⁸Ibid., pp. 81-87.

¹⁹Ibid., p. 143.

²⁰Ibid., p. 1182.

to the voters for their acceptance or rejection.²¹ On April 24th, after lengthy debate, the majority report was accepted.²²

The article concerning the boundaries of the new State was the first part of the constitution considered and acted upon. The boundaries were to be the same as that of 1887.²³

The next order of business involved the Preamble and Bill of Rights. This section of the constitution occupied the convention for a period of 13 days. Section Four, concerning the guarantee of religious freedom and the separation of Church and State, was taken from a similar section in the constitution of the State of Tennessee.²⁴ The separation of Church and State came in for much discussion, and the convention resolved that it should be firmly emphasized in the constitution.

The question of the jury system in Section Ten, was debated at length. Mr. Evans led the argument for small juries. He contended that the large judicial districts of the State would impose undue hardship upon jurors who were called to serve from outlying districts, and that expenses should be kept down. The adherents of the time-honored 12 man system managed to keep such a system for the trying of capital cases.²⁵

The question of the State's using or damaging private property came under discussion in Section Twenty-two. A section of the Illinois

²¹Ibid., p. 1183.

²²Ibid., p. 1464.

²³Utah, Constitution, Art. II.

²⁴Official Proceedings, op. cit., p. 230.

²⁵Ibid., p. 622.

constitution was used as a model. It provided for just compensation to be paid, thus preventing any unjust action on the part of State officials.²⁶

On April 3rd, the convention passed the Preamble and the Bill of Rights without a dissenting vote.²⁷

The hardest fight of the convention centered around the adoption of woman suffrage which had been abolished in 1887 by the Edmunds-Tucker Act. The committee on elections and suffrage reported in favor of extending the franchise to women. They cited that woman suffrage was a growing trend in the West and had proven successful in Wyoming as well as in other states.²⁸ Mr. B. H. Roberts, the noted historian, spoke for the opposition. It was his contention that the Democratic Party did not favor woman suffrage. He feared that the adoption of such a provision might hinder the entrance of Utah into the Union. He also cited the example of the populous Eastern States that had not seen fit to adopt female suffrage. He felt that women were prone to give vent to their sympathetic impulses rather than to go by real convictions. Further, the man was the head of the family and thus, should be the representative of the family in the matter of politics.²⁹ Mr. Evans answered the argument that adoption might hinder admission by stating that under the Enabling Act the President was compelled to admit Utah whether suffrage was provided for or not.³⁰ The debate had

²⁶Ibid., p. 326.

²⁷Ibid., p. 651.

²⁸Ibid., p. 265.

²⁹Ibid., p. 407, 427.

³⁰Ibid., p. 529.

one unfortunate overtone to it; Mr. Samuel Thurman of Provo, felt that anti-Mormon forces were banding together against the proposal.³¹ The Republican majority finally resolved the issue, and on April 5th, the matter was put to a test. The suffrage section was approved by a vote of 74 to 14.³²

The matter of inserting a clause prohibiting polygamy was necessary, since the Enabling Act called for one to be provided in the constitution.³³ Mr. Charles S. Varian of Salt Lake City, a lawyer who had figured prominently in the prosecution of polygamists, moved that the February 4, 1892 Act of the Legislature and Governor to punish polygamy,³⁴ be used. His motion was carried by a vote of 72 to 16.³⁵

The last two weeks of the convention were devoted mostly to matters of schedule. On May 8th, after 65 days of deliberation, the constitution was presented to the convention for its approval. It was passed by a vote of 72 to zero.³⁶ The committee on accounts and expenses then made its final report showing that the convention had spent \$29,998.90 of the \$30,000 appropriated by Congress. There were also outstanding bills amounting to \$9,509.50 due largely to delegates for expenses incurred during the convention.³⁷

Governor West then briefly addressed the convention congratu-

³¹Ibid., p. 436.

³²Ibid., p. 767.

³³Ibid., p. 4. Sec. 3, of the Enabling Act.

³⁴Ibid., p. 1736.

³⁵Ibid., p. 1749.

³⁶Ibid., p. 1837. There were 34 absent.

³⁷Ibid., p. 1851.

lating the delegates on a job well done.³⁸ President Smith delivered an engrossed copy of the constitution to the Secretary, and declared: The business of the convention, I believe is done, and the constitution has been placed in the hands of the Secretary.³⁹

The convention had worked long hard hours to give Utah the best possible constitution. The requirements set by the Enabling Act were all met with and successfully accomplished. The constitution included a detailed Declaration of Rights which was drawn from the constitutions of other states. It provided for religious liberty, freedom of press and speech, trial by jury, the guarantee of habeas corpus, and the prohibition of slavery.

Article II outlined the state boundaries, which had not changed since the constitution of 1872. Article III was the Ordinance by which polygamy was forever forbidden. Article IV gave the vote to both sexes, and provided for the secret ballot. Article V called for the usual three branches of government.

Article VI prescribed a bicameral legislature meeting annually for 60 days and in addition, in special sessions called by the Governor. The constitution fixed the maximum number of Senators at 30; the number of Representatives at not less than twice nor more than three times the number of Senators. Senators held office for a four year term with half of the Senate going out every two years. Representatives were chosen for a two year term. Passage of a bill required a majority of both houses. Eighteen subjects were enumerated on which the legislature was forbidden to pass special laws, and in all cases where

³⁸Ibid., p. 1852.

³⁹Ibid., p. 1853.

a general law could be applied, no special law could be enacted.

Article VII provided for a governor, secretary of state, attorney general, state auditor, state treasurer, and superintendent of public instruction, all to serve for four year terms. The governor was named commander-in-chief of the militia; he was to execute the laws and recommend measures to the legislature, and he could call special sessions, prescribing the topics to which the legislature was to confine itself during such sessions. He was granted a veto, including an item veto on appropriation bills which could be overridden by a two-thirds vote of all the members of each house.

Article VIII provided for a Supreme Court, district courts, and justice of the peace courts, as well as a provision to establish such inferior courts as may be necessary.

Article IX settled the apportionment struggle between the rural interests which desired representation of territory and the more populous areas which desired representation on the basis of population. The Article provided for representation on the basis of population with the proviso that each county was entitled to one representative. A census was called for in 1905 and every 10 years thereafter, and the constitution required a reapportionment after such census and also after the Federal census.

Article X dealt with education and provided for free nonsectarian schools, the elimination of religious or partisan tests for teachers or students; public aid to church schools was forbidden.

Article XI dealt with local government. Article XII dealing with corporations prohibited blacklisting. Article XIII concerning taxation followed the trend set by the constitution of 1872 by setting

special provisions protecting the mining industry. Article XIV provided for Territorial debts to be assumed by the new State. Article XV provided for a state militia.

Article XVI dealing with labor was chiefly drawn from the constitutions of Idaho and Wyoming. It provided for a Board of Labor, Conciliation, and Arbitration, which would fairly represent the interests of both capital and labor. An eight hour day was set for workers who were employed on public works.

Article XVII confirmed existing water rights. Article XVIII provided for the preservation of forests. Article XIX dealt with the establishment and construction of public buildings and state institutions. Article XX was concerned with public lands. Article XXI provided salaries for state officials. Article XXII dealt with miscellaneous items.

Article XXIII provided for the proposal of amendments by a two-thirds vote of the entire membership of each house and ratification by popular referendum. The legislature, by the same vote, could propose to the voters a constitutional convention, and if the voters approved a constitutional convention, it was to be provided for by the legislature. The new constitution framed by the legislature required ratification by the voters in a referendum.

Article XXIV dealt with the schedule that provided for the transition from the territorial government to statehood.

The basis for the majority of the articles written into the constitution was to be found in the constitutions of the East and Midwest. The West contributed the articles dealing with suffrage and labor rights.

The Aftermath

The two major national parties nominated candidates for the new state offices. The Republicans held their convention in Salt Lake City in August 1895, and chose Heber Wells as their candidate for Governor. The Democratic convention held at Ogden in September, selected John T. Caine as their choice for Governor. The election was held on November 5, 1895. The Republican candidate, Wells, received 20,883 votes for Governor, and Caine, 18,519 votes. The constitution was adopted by a vote of 31,305 to 7,687. The chief centers of opposition were in Salt Lake City and Ogden.⁴⁰

On December 5, the Utah Commission appointed two of its members, Jerrold R. Letcher and Hoy Sherman Jr., to present the original copy of the constitution of the proposed state to President Cleveland personally. The two men were accompanied by Governor West, Frank J. Cannon, the delegate to Congress; C.C. Carleton of the Salt Lake Herald; and W.C. Amin of the Salt Lake Tribune. The delegation obtained an audience with the President at noon on December 16th and presented him with the original copy of the constitution.⁴¹

On January 4, 1896, President Cleveland proclaimed Utah the forty-fifth state of the Union and issued the following proclamation:

Whereas, a constitution has been drawn up according to the Enabling Act; religious freedom guaranteed; polygamy prohibited; constitu-

⁴⁰The Deseret News, December 14, 1895. See Appendix H for the election returns.

⁴¹Ibid., December 16, 1895.

tion voted upon and adopted by the majority of the people; constitution is Republican in form and is not repugnant to the United States constitution and the Declaration of Independence, now, therefore, I Grover Cleveland, President of the United States of America, in accordance with the act of Congress aforesaid and by authority thereof announce the result of said election to be so certified and hereby declare and proclaim that the terms and conditions prescribed by the Congress of the United States to entitle the State of Utah to admission into the Union have been duly complied with, and the creation of said State and its admission into the Union on an equal footing with the original States is now accomplished.⁴²

News of the President's proclamation reached Salt Lake City later the same day. The news was made known by the firing of a shot in front of the Western Union Telegraph office. All at once the people began ringing bells, blowing whistles and firing guns in celebration of the event.⁴³

Utah's state government was inaugurated on Monday, January 6, 1896 when the state officers were installed. The occasion was observed as a holiday with large groups of people coming from all parts of the new state to assemble in the Tabernacle to witness the installation.⁴⁴

On January 8th the two houses of the legislature met in joint session to hear the reading of the governor's message. After congratulating the people of Utah upon the admission of the state, the governor reviewed the financial condition of the state. From territorial days, Utah inherited an indebtedness of approximately \$700,000. Then the governor also requested that suitable quarters be found for the state officials so that the state's business could be transacted satisfactorily. The governor also reminded the legislature that they were to elect two Senators to represent Utah in the Senate; to pass a bank-

⁴²Ibid., January 4, 1896.

⁴³Ibid., January 11, 1863.

⁴⁴Ibid.

ing law; to pass a law regulating the freight rates of the railroads; to promote irrigation; to create a board of arbitration; to make an appropriation for maintaining the Utah National Guard; to pass a law to protect the fish and game of the state; and to send a memorial to Congress asking for the remonetization of silver and free coinage of both gold and silver at the ratio of 16 to one.⁴⁵

The majority of the governor's recommendations were enacted by the legislature. On January 22, 1896, they met in joint session and under agreement of the Republican caucus elected Frank J. Cannon, a Mormon, and Arthur Brown, a non-Mormon lawyer, as United States Senators.

⁴⁵Ibid., January 18, 1896.

CHAPTER VII

SUMMARY AND CONCLUSIONS

In March of 1849 after the Mormons had been in the Great Salt Lake Valley for 20 months, they created a provisional government. A constitution was drafted, and officers for the State of Deseret were elected in Great Salt Lake City. Brigham Young was named governor, and other leading members of the Mormon Church were named to lesser posts. The proposed boundaries of the new state took in nearly two-thirds of the present-day southwestern United States. Deseret stretched from Colorado on the east to extreme southern California on the west, and from southern Idaho in the north to the middle of Arizona and New Mexico in the south. The constitution of Deseret did not differ basically from those of other states. It provided for three branches of government. Religious freedom was granted, white manhood suffrage was prescribed, and no mention was made of the controversial issue of slavery. The bid for statehood failed because of the isolated position of the area coupled with insufficient population. However, by the Compromise of 1850, the Territory of Utah was created with substantially reduced boundaries. Brigham Young was named governor, but Federal officers were introduced into many of the high offices, particularly in the judiciary.

The official pronouncement of polygamy as a basic tenet of the Mormon faith in 1853, stirred up a nation-wide condemnation and became the major basis for political opposition to the admission of Utah as a

state.

In 1856, a new attempt at statehood was made. A constitutional convention met in Great Salt Lake City. The constitution of the proposed State of Deseret was a virtual copy of the constitution of 1849, except for minor changes incurred by the enlargement of civil government in the Territory. The proposed boundaries of the new state were reduced by the admission of California in 1850. Though the memorial to Congress stated that the Territory had the necessary qualifications for statehood, the request for statehood was not made, because of political antagonism to the movement in Washington.

Resentment of "outside" officials in the Territory resulted in a series of incidents that culminated in a report that the Territory was in a state of rebellion. Governor Young was replaced by Alfred Cummings, a non-Mormon, who was escorted to the Territory by General Johnson and his army. The appearance of an army sent by the Federal government to quell any signs of disturbance led to the Utah War, which, outside of the burning of Federal supplies by Mormon raiders caused little damage to either side. However Federal troops became established in the Territory.

The outbreak of the Civil War saw yet another attempt at statehood. In 1862, a constitution convention was held in Salt Lake City. Once again, the resultant constitution called for the creation of a State of Deseret. The constitution was again basically the same as that of 1849. The memorial to Congress presented the same arguments used in the memorial of 1856. Instead of being welcomed as an entry into the Union, Congress greeted Utah with the Morrill Act, which struck a blow at the practice of polygamy.

Out of the convention of 1862 grew the "ghost government of Deseret." Brigham Young was elected governor, and a legislature was formed that met yearly until 1870, to pass the same legislation the members had passed while sitting as the Territorial legislature.

In 1869, the completion of the transcontinental railroad brought an influx of non-Mormons into the Territory. Political dissension between the two groups led to the creation of the anti-Mormon Liberal Party and the pro-Mormon People's Party which controlled Utah's politics until the 1890's.

The arrival of Federal Judge James B. McKean signaled an attempt by the Federal government to harass the authority of the Mormon Church. This continuing harassment led to another attempt at statehood in 1872. The delegates gathered in Salt Lake City, and for the first time included non-Mormons among their numbers. Thomas Fitch, a non-Mormon, was responsible for the inclusion of section five of the ordinance to the constitution which gave Congress the right to set any terms as a condition of admission. The constitution itself was based on that of the new State of Nevada. It was a highly comprehensive and more complicated document than its predecessors. It protected the burgeoning mining industry from taxation and extended state protection to the non-Mormon miners. A system of voting was set up to insure minority representation, and the franchise was extended to women. The freedom of religion was emphatically guaranteed. In the memorial to Congress, it was argued that Utah had a Territorial government insufficient for its growing needs. It was further stated that a government ruled from afar and without the consent of the governed was oppressive and anti-republican. The Federal government refused to consider Utah's admission in the face

of growing agitation in the nation and in the Congress that Utah was maintaining a church theocracy which was alien to the American way of life.

The passage of anti-polygamy legislation in Congress, particularly the Edmunds Act in 1882 which set up fines and imprisonment for violators of the Act, and which created the Utah Commission to supervise the electoral processes in the Territory, forced a new attempt at statehood in 1882. Though the constitution on 1882 was based on that of 1872, no provision was made for Congress to set conditions of admittance, and for the first time the constitution called for the creation of the state of Utah instead of Deseret. Once again the petition for admission got nowhere.

The 1880's saw thousands of Mormons disfranchised for refusing to take the test oath set up by the Utah Commission to make the voter refute or condemn the practice of polygamy.

In 1887, the Congress passed the Edmunds-Tucker Act which disincorporated the Mormon Church, abolished female suffrage and the Perpetual Emigration Fund Company. The move placed severe economic stress upon the Mormon Church and another statehood attempt was made in order to relieve this pressure. This time the People's Party called the convention, inviting all other political factions to participate in the proceedings. The convention met in Salt Lake City and quickly wrote a constitution based primarily on that of 1872 but following the path laid out by the Edmunds-Tucker Act, provided for only male suffrage. It included an article which strictly forbade the practice of polygamy. The memorial to Congress pointed out that the Territory had complied with the wishes of the government in every extent, but

once again the petition was to no avail. The prevalent feeling in Congress was that the leaders of the Mormon Church had to officially renounce the practice of polygamy. This was accomplished in 1890 by the Woodruff Manifesto. The rejection of polygamy was a concern to both political factions in Utah. The Church surrendered part of their doctrine at the insistence of the Federal government, and the anti-Mormon faction lost their biggest argument against statehood under a Mormon majority, as well as a chance to gain political control in the Territory.

In 1894, Governor West declared that Utah was ready for Statehood, and the Utah Commission observed that the conditions set down by the Edmands-Tucker Act had been met. Congress passed an Enabling Act to call a constitutional convention to prepare for the admission of Utah into the Union.

The convention was held in Salt Lake City during the Spring of 1895 and lasted for a period of 45 days. A constitution was written that borrowed salient features particularly from the constitutions of the Eastern and Midwestern states. The West was represented mainly in the areas of woman suffrage and the rights of labor. The constitution contained clauses prohibiting the practice of polygamy, calling for the strict separation of Church and State and providing for free, non-sectarian public schools. The only argument of consequence concerned woman suffrage; after long debate, women were given the franchise.

The constitution was overwhelmingly ratified by the citizens of the Territory. On January 4, 1896, President Cleveland signed the proclamation that enabled Utah to enter the Union as the forty-fifth

state.

Though the Mormons desired statehood almost from the time they entered the Great Basin, when it was seen by the leaders of the Church that Congress and the nation would not tolerate the practice of plural marriage and the Church's theocratic control over the social, economic and political affairs of the Territory, the Church leaders were loath to abandon their position of authority.

Early overtures for statehood to 1862 were made to Congress when the political atmosphere was judged ripe for Utah to enter the Union without incurring severe political and social restrictions.

From 1862 to 1887, Federal anti-polygamy legislation forced the Church, through economic and social pressures, to try to secure statehood as a means of alleviating these pressures in order to preserve the Church. When all the conditions set down by the Federal government were met by the Territorial government and the Church as well, then Utah was allowed to enter the Union.¹

Attracted by the railroad and mining opportunities, non-Mormons entered the Territory in large numbers in the late 1860's. Their influence can be seen in the constitution of 1872, when they were represented by delegates for the first time. Congress was invited to set the conditions by which Utah could enter the Union, and again, in the constitutions of 1887 and 1895, when the practice of polygamy was strictly prohibited. The protection of the mining industry which was chiefly operated by non-Mormon interests can be seen in the taxation articles of the constitutions of 1872, 1882, 1887, and 1895. The struggle for

¹See Appendix for a chart of territorial constitutional development from 1849 to 1895.

free non-sectarian public schools led by non-Mormons can be traced in the 1872 and ensuing constitutions.

Church doctrine had to finally bow to the small but loud non-Mormon voice within the Territory and to nation-wide public opinion which manifested itself in severe Congressional legislation and Federal administrative practices toward the Territory.

APPENDIX A

The List of Delegates to the Convention of 1862

From Great Salt Lake County: Daniel H. Wells, Abraham O. Smoot, Elias Smith, James Ferguson, Ruben Miller, Wilford Woodruff, Archibald Gardner, Albert Carrington, John Taylor.

From Davis County: Lot Smith, Thomas Grover, William C. Smith, Christopher Layton, Samuel W. Richards.

From Weber County: Aaron F. Farr, Loren Farr, Chauncey W. West, Jonathan Browning, James McGaw, Crandall Dunn.

From Box Elder County: Lorenzo Snow, Jonathan C. Wright, Alfred Gordon.

From Cache County: Ezra T. Benson, Peter Maughn, William B. Preston, William Hyde, Preston Thomas, William Maughn, Seth M. Blair.

From Summit County: Thomas Rhoads, Henry W. Brisse, John Reese.

From Tooele County: Evan M. Greene, John Rowberry, Eli B. Kelsey.

From Shambip County: Lysander Gee.

From Cedar County: Zerubbabel Snow, William Price.

From Utah County: Leonard E. Harrington, James W. Cummings, Albert K. Thurber, Lorenzo H. Hatch, Benjamin F. Johnson, Aaron Johnson, William M. Walls.

From Jusb County: Timothy B. Foote, Israel Hoyt, Jonathan Midgley.

From Sanpeta County: Frederick W. Cox, Matthew Caldwell, Wm. S. Seely, Bernard Snow, Madison D. Hambleton.

From Millard County: Thomas Callister, Thomas R. King.

From Beaver County: Wm. J. Cox, E. W. Thompson, James H. Rollins.

From Iron County: Hosea Stout, Silas S. Smith, Horace Eldredge.

From Washington County: John M. Moody, Wm. Crosby, Geo. A. Smith.

APPENDIX B

The Standing Committees appointed by the Convention of 1862

Constitution, and State Government: George A. Smith, Albert Carrington,
Elias Smith, Zerubbabel Snow, John Taylor.

Memorial: James Ferguson, Wilford Woodruff, Samuel W. Richards, Lorenzo Snow, Leonard E. Harrington.

Ordinance: Abraham O. Smoot, Evan M. Greene, James W. Cummings, Albert K. Thurberm, Loren Farr.

Elections: Orson Hyde, Ezra T. Benson, John M. Moody, Bernard Snow, William B. Preston.

APPENDIX C

The following box shows the results of the first general election, held under the constitution of 1862. The returns of Wasatch, Washington, Iron and Green River counties were not recorded. If the citizens of these counties turned out and voted in a proportionate ratio to those from which returns were recorded, the aggregate vote would number nearly 13,000.

County	For Constitution	For Governor Brigham Young	For Lieut. Gov. H. C. Kimball	For Rep. to Cong. J. M. Bernhisel
Great Salt Lake -	2,569	2,569	2,569	2,569
Davis -	731	731	731	731
Morgan -	109	109	109	109
Sanpete -	929	929	929	917
Cache -	756	756	756	756
Weber -	897	897	897	897
Box Elder -	326	326	326	326
Summit -	236	236	236	236
Tooele -	271	271	271	271
Juab -	165	165	165	165
Millard -	434	434	434	434
Beaver -	148	148	148	148
Utah -	<u>2,309</u>	<u>2,309</u>	<u>2,308</u>	<u>2,304</u>
Total	9,879	9,880	9,880	9,862

APPENDIX D

The List of Delegates to the Convention of 1872

From Beaver County: E. H. Blackburn, John R. Mardock, Daniel Taylor.

From Box Elder County: George A. Bruce, M. W. Dalton, E. P. Johnson, Chester Loveland, Lorenzo Snow, Jonathan C. Wright.

From Cache County: W. Hyde, Lorenzo Hatch, Milton Hammond, O. N. Liljenquist, Wm. Littlewood, W. H. Maughn, M. W. Merrill, W. P. Preston, Moses Thatcher.

From Rich County: Charles C. Rich.

From Sanpete County: Geo. Taylor, David Candland, Rees R. Lewellyn, Abner Lowry, Christian A. Madsen, Geo. Peacock, Warren S. Snow, H. W. Sanderson.

From Millard County: Thos. Callister, Culbert King, Platt D. Lyman, Daniel Thompson.

From Morgan County: Jesse Haven, Lyman W. Porter.

From Piute and Sevier Counties: H. A. Halcombe, W. Morrison, Peter Rasmussen.

From Iron County: Seth M. Blair, Edward Dalton, Silas S. Smith.

From Juab County: John Hague, Geo. Kendall, A. G. Sutherland.

From Kane County: A. M. Harman, John Nebeker.

From Davis County: John R. Barnes, Call Anson, Nathan Porter, Thos. Rauche, Lot Smith, Thomas S. Smith, John Telford.

From Weber County: Gilbert Belknap, G. S. Erb, Lorin Farr, F. D. Hammond, L. J. Herrick, C. W. Penrose, F. D. Richards, H. E. Snow.

From Washington County: Solon Foster, Israel Ivins, W. Snow, J. W. Young.

From Utah County: W. Bringham, John Brown, David Evans, L. E. Harrington, John Milner, W. Pace, W. Price, A. O. Smoot, Orrawell Simons, A. K. Thurber.

From Wasatch County: H. S. Alexander, Abram Hatch, N. C. Mardock, John DeWitt.

From Summit County: Samuel Attwood, W. W. Cluff, George G. Snyder.

From Tooele County: George Byran, George Burrige, John Franks, Edward Hunter, John Rowberry, Richard Warburton.

From Salt Lake County: T. P. Akers, D. E. Buel, E. M. Barnum, George Q. Cannon, John T. Caine, Albert Carrington, Thomas Fitch, Frank Fuller, William Hayden, E. D. Hoge, W. Jennings, Hadley Johnston, Aurelius Miner, Reuben Miller, Orson Pratt, A. P. Rockwood, John Sharp, Z. Snow.

APPENDIX E

The Standing Committees appointed by the Convention of 1872

Ordinance, Bill of Rights. & c: George Q. Cannon, Joseph W. Young, John T. Caine, Abraham O. Smoot, Thomas Fitch, Franklen D. Richards, William Jennings, John Rowberry, John Sharp.

Legislative Department: Lorenzo Snow, Albert Carrington, William B. Pace, Aurelius Miner, Charles W. Penrose, Moses Thatcher, Hadley D. Johnson, George Peacock, Lorin Farr.

Judiciary: Z. Snow, Jonathan C. Wright, John B. Milner, William Haydon, Seth M. Blair, William H. Maughan, George Q. Cannon, Jesse N. Smith, Enos D. Hoge.

Municipal and other Corporations: Albert P. Rockwood, Leonard E. Harrington, M. W. Dalton, Jon Brown, Rees R. Llewelyn, Reuben Miller, John Hague, Lyman W. Porter, Henry Eudey.

Finance and State Department: Abraham O. Smoot, David Candland, Appleton M. Hammond, Orrawell Simons, Anson Call, George Burrige, M. D. Hammond, M. W. Merrill, Z. Snow.

Education: Orson Pratt, Senr., Charles W. Penrose, Wm. B. Preston, Albert P. Rockwood, Thomas Callister, H. W. Sanderson, John Rowberry, John Telford, Jonathan C. Wright.

Militia: Chas. C. Rich, William B. Pace, Warren S. Snow, Chester Loveland, John Franks, C. A. Madsen, Thomas F. Rouche, Culbert King, Peter Rasmussen.

Taxation: Albert K. Thurber, Thomas S. Smith, John Nebeker, George Kendall, David Evans, Platt D. Lyman, Solon Foster, Samuel F. Attwood, William F. Littlewood.

Impeachment & Removal from Office: Thos. P. Akers, Jesse Haven, H. A. Holcomb, G. L. Erb, Geo. H. Bryan, Wm. Price, Lorin Farr, Albert Carrington, Aurelius Miner.

Public Instructions: Joseph W. Young, D. E. Buel, William Snow, Abram Hatch, William W. Cluff, John R. Murdock, Lot Smith, Daniel Thompson, O. N. Liljenquist.

Boundary, Miscellaneous Provisions and Enactments: Jesse N. Smith, Daniel Tyler, Gilbert Belknap, Lorenzo Hatch, John Barnes, Edward Dalton, Israel Ivins, Nathan Porter, N. C. Murdock.

Schedule and Election Ordinance: Thos. Fitch, Wm. Morrison, Silas
Smith, Wm. Bringham, Richard Warburton, F. A. Hammond, H.
S. Alexander, Abner Lowry, John T. Caine.

APPENDIX F

Abstract of election returns held in the Territory of Utah
on March 3, 1872, for the acceptance or rejection of the Constitution
of the State of Deseret.

<u>Counties</u>	<u>Constitution, Yes</u>	<u>Constitution, No</u>	<u>Total</u>
Beaver	411	-	411
Box Elder	1,155	2	1,157
Cache	2,598	1	2,599
Davis	1,421	-	1,421
Iron	630	-	630
Juab	636	40	575
Kane	478	-	478
Millard	876	-	876
Morgan	472	2	474
Plute	916	-	916
Rich	5,055	152	5,207
Salt Lake	2,425	-	2,425
Sanpete	416	-	416
Sevier	590	18	608
Summit	728	139	867
Tooele	3,176	7	3,183
Utah	438	-	438
Wasatch	960	-	960
Washington	1,880	-	1,880
Weber			
Totals	25,160	365	25,525

APPENDIX G

The List of Delegates to the Convention of 1882

- From Beaver County: Jas. McKnight, James Lowe.
- From Box Elder County: T. W. Brewerton, O. G. Snow, R. H. Batty.
- From Cache County: Charles W. Nibley, G. W. Thatcher, Charles O. Card, I. C. Thoresen, James Mack, Joseph Howell.
- From Davis County: Arthur Stayner, Peter Barton, W. Thurgood.
- From Emery County: Elias Cox, David Williams.
- From Iron and San Juan Counties: Edward Dalton, Silas S. Smith, John Myers.
- From Juab County: Edwin Harley, William Bryan.
- From Kane County: Charles N. Smith, L. John Nuttall.
- From Millard County: Joseph V. Robinson, George Crane.
- From Morgan County: Samuel Francis.
- From Piute County: Culbert King.
- From Rich County: Joseph Kimball.
- From Salt Lake County: Joseph F. Smith, D. H. Wells, John T. Caine, G. W. Penrose, Ben Sheeks, LeGrande Young, W. W. Ritter, J. L. Rawlins, J. R. Winder, Emmeline B. Wells, Elizabeth Howard, Hosea Stout, James Sharp.
- From Sanpete County: Christian N. Lund, J. P. Christensen, Rees R. Llewellyn, Henry D. Reese, John H. Hougaard.
- From Sevier County: Albert D. Thurber, Wm. H. Seegmiller, Wm. A. Warnock.
- From Summit County: W. W. Cluff, Ward E. Pack, Alma Eldredge.
- From Tooele County: Wm. C. Rydalch, Thomas Atkin.
- From Utah County: A. O. Smoot, S. R. Thurman, John S. Boyer, G. D. Snell, L. E. Harrington, J. E. Booth, J. S. Page, John C. Graham.

From Wasatch and Uintah Counties: Henry L. Alexander, Abram Hatch.

From Washington County: Richard Bentley, Edwin G. Woolley.

From Weber County: F. S. Richards, Joseph Stanford, Nathan Tanner Jr.,
L. W. Shurtliff, F. A. Hammond.

APPENDIX H

The Standing Committees appointed by the Convention of 1882

Ordinance, Bill of Rights: D. H. Wells, John T. Caine, Sarah M. Kimball, W. W. Riter, Joseph Rawlins, J. E. Booth, Hosea Stout.

Legislative Department: C. W. Penrose, Edward Dalton, E. Turgood, Ward E. Pack, S. R. Thurman, Charles O. Card, J. E. Booth.

Executive Department: F. S. Richards, Samuel Francis, Charles W. Nibley, Hosea Stout, LeGrande Young, Ben Sheeks, Abram Hatch.

Judiciary: Leonard E. Harrington, A. O. Smoot, B. Sheeks, N. Tanner, L. Young, Edward Dalton, D. H. Wells.

Municipal and other Corporations: J. T. Caine, T. W. Brewerton, Rees R. Llewellyn, J. S. Page, Joseph Stanford, J. L. Rawlins, James Sharp.

Finance and State Department: G. W. Thatcher, William Bryan, Richard Bentley, J. P. Christensen, James Sharp, F. A. Hammond, Ward E. Pack.

Education: Arthur Stayner, Emmeline B. Wells, John S. Boyer, J. T. Caine, John C. Graham, Joseph Howell, L. John Nuttall.

Militia: J. R. Winder, Alma Eldredge, Culbert King, Albert D. Thurber, H. Stout.

Taxation: William H. Cluff, A. Hatch, George Crane, John H. Hougaard, O. C. Snow, L. W. Shurtliff, William A. Warnock.

Impeachment and Removal from Office: Edwin G. Woolley, James Crane, Sarah M. Kimball, Wm. C. Rydalch, Elias Cox, Issac Duffin.

Public Institutions: Silas S. Smith, Thomas Atkin, Charles O. Card, Joseph Kimball, Jas. McKnight, Henry D. Reese, G. D. Snell.

Boundaries, Miscellaneous Provisions and Amendments: James Lowe, Henry L. Alexander, Peter Barton, C. N. Lund, John Meyers, I. C. Thoreson, W. W. Riter.

Schedule and Election Ordinance: A. O. Smoot, R. H. Batty, E. M. Wells, Edwin Harley, James Mack, Joseph V. Robinson, William H. Seegmiller.

APPENDIX H

The Special Committees appointed by the Convention of 1882

Revision and Consolidation: D. H. Wells, C. W. Penrose, F. S. Richards, L. E. Harrington, J. T. Caine, G. W. Thatcher, A. Stayner, J. R. Winder, W. W. Cluff, E. G. Woolley, S. S. Smith, J. Lowe, A. O. Smoot, J. L. Rawlins, B. Sheeks, L. Young, N. Tanner Jr., S. R. Thurman, J. E. Booth, J. Sharp, W. W. Riter.

Memorials: D. H. Wells, F. S. Richards, J. T. Caine, C. W. Penrose, J. R. Winder.

Printing: C. W. Nibley, A. Hatch, J. R. Winder.

General Advisory and Election Committee: J. E. Smith, D. H. Wells, F. S. Richards, J. T. Caine, C. W. Penrose, J. R. Winder, A. Stayner.

APPENDIX I

Abstract of election returns held in the Territory of Utah
on May 22, 1882, for the acceptance or rejection of the Constitution
of the State of Utah.

<u>Counties</u>	<u>Constitution, Yes</u>	<u>Constitution, No.</u>	<u>Total</u>
Beaver	559	73	632
Box Elder	1,485	34	1,519
Cache	3,113	-	3,113
Davis	1,240	5	1,245
Emery	200	-	200
Garfield	314	-	314
Iron	459	2	461
Juab	733	28	761
Kane	757	1	758
Millard	792	-	792
Morgan	374	2	376
Plute	182	33	215
Rich	208	-	208
Salt Lake	5,358	16	5,374
Sanpete	2,646	12	2,658
Sevier	872	-	872
Summit	697	1	698
Tooele	650	75	725
Utah	4,089	23	4,112
Wasatch	430	1	431
Washington	710	184	894
Wasar	<u>1,946</u>	<u>8</u>	<u>1,954</u>
Totals	<u>27,814</u>	<u>498</u>	<u>28,312</u>

APPENDIX J

The List of Delegates to the Convention of 1887

From Beaver County: P. T. Farnsworth, F. R. Clayton.

From Box Elder County: O. C. Snow, R. H. Batty.

From Cache County: Jas. T. Hammond, John E. Carlisle, Joseph Howell,
Aaron D. Thatcher, John T. Caine, Jr., L. C. Thoresen, W. J.
Kerr.

From Davis County: Thos F. Roueche, David Stoker, Joseph Barton.

From Emery County: Jasper Robertson.

From Iron and San Juan Counties: R. W. Heyborna.

From Juab County: William Bryan, F. W. Chappell.

From Kane County: James L. Bunting.

From Millard County: George Crane, Joshua Greenwood.

From Morgan County: Samuel Francis.

From Piute County: Matthew W. Mansfield.

From Salt Lake County: James Sharp, W. W. Ritter, John T. Caine,
S. P. Teasdel, F. S. Richards, LeGrand Young, John Clark,
Elias A. Smith, Richard Howe, L. S. Hills, Samuel Bennion,
Andrew Jenson, Feramorz Little, Francis Armstrong, Junius
F. Wells, John R. Winder.

From Sanpete County: Luther T. Tuttle, Louis Anderson, J. P. Chris-
tensen, John Bartholomew, C. N. Lund.

From Sevier County: Wm. H. Seegmiller, J. S. Jensen, W. A. Warnock.

From Summit County: Alma Eldredge, John Boyden, Ward E. Pack.

From Tooele County: Daniel D. Houtz, W. G. Collett.

From Utah County: S. R. Thurman, W. N. Dusenberry, Abram Noe, George
Webb, J. E. Booth, W. Cree, J. S. Page, Jas. Bullock.

From Wasatch and Uintah Counties: Abram Hatch.

From Washington County: E. G. Woolley, R. C. Lund.

From Weber County: L. W. Shurtliff, D. H. Beery, C. U. Richards,
J. H. Rolapp, Alternate, N. Montgomery, Geo. Bramwell, Jr.

APPENDIX K

Abstract of election returns held in the Territory of Utah
on August 1, 1887, for the acceptance or rejection of the Constitution
of the State of Utah.

<u>Counties</u>	<u>Constitution, Yes</u>	<u>Constitution, No.</u>	<u>Total</u>
Beaver	273	21	294
Box Elder	471	31	502
Cache	1,000	12	1,012
Davis	501	9	510
Emery	275	53	328
Garfield	156	14	170
Iron	235	10	245
Juab	394	10	404
Kane	137	1	138
Millard	345	24	369
Morgan	156	14	170
Piute	210	51	261
Rich	141	4	145
Salt Lake	2,729	29	2,758
San Juan	8	-	8
Sanpete	1,057	47	1,104
Sevier	444	12	456
Summit	393	15	408
Tooele	340	39	379
Uintah	119	28	247
Utah	1,865	65	1,930
Wasatch	301	7	308
Washington	453	1	454
Weber	1,182	8	1,190
Totals	13,195	502	13,697

APPENDIX L

The List of Delegates to the Convention of 1895

- From Beaver County: Andrew S. Anderson, John R. Murdock.
- From Box Elder County: W. H. Gibbs, William Lowe, Peter Lowe, J. D. Peters.
- From Cache County: Charles H. Hart, Henry Hughes, W. J. Kerr, James P. Lowe, William H. Maughn, Moses Thatcher, I. C. Thoreson, Noble Warrum Jr.
- From Davis County: John R. Barnes, Chester Call, B. H. Roberts.
- From Emery County: William Howard, Joseph E. Robinson, W. G. Sharp.
- From Garfield County: John F. Chidester.
- From Grand County: Mons Peterson.
- From Juab County: L. L. Coray, J. A. Hyde, George Ryan.
- From Kane County: Charles Crane, Daniel Thompson.
- From Millard County: Joseph E. Robinson.
- From Morgan County: Samuel Francis.
- From Piute County: R. A. Allen.
- From Rich County: Aquila Nebeker.
- From Salt Lake County: J. R. Bowdle, H. G. Button, George M. Cannon, A. J. Cushing, D. C. Eichnor, George R. Emry, C. C. Goodwin, J. F. Green, Harry Haynes, S. H. Hill, William F. James, Andrew Kimball, Richard G. Lambert, Richard Mackintosh, Elias Morris, Jacob Moritz, Frank Pierce, William B. Preston, A. H. Raleigh, F. S. Richards, H. T. Shurtliff, John Henry Smith, George B. Squires, Charles W. Symons, W. G. Van Horne, Charles Varian, Heber M. Wells, Orson F. Whitney, J. J. Williams.
- From San Juan County: F. A. Hammond.
- From Sanpete County: Parley Christianson, J. L. Jolley, Lauritz Larsen, C. P. Larson, A. C. Lund, J. D. Page, J. C. Peterson.
- From Sevier County: Theodore Brandley, G. P. Miller, Joel Ricks.

From Summit County: Alma Eldridge, Thomas Kearns, David Keith,
James D. Murdock.

From Tooele County: T. H. Clark, D. B. Stover.

From Uintah County: Lycurgus Johnson.

From Utah County: J. S. Boyer, E. E. Corfman, William Greer, George
Cunningham, Anders Engberg, A. J. Evans, J. D. Halliday, Hy-
rum Lemmon, Karl G. Maeser, Edward Partridge, Samuel R. Thur-
man.

From Wasatch County: Williams Buys, Joseph R. Murdock, Thomas S.
Watson.

From Washington County: A. W. Ivins, Edward H. Snow.

From Wayne County: Willis E. Robison.

From Weber County: L. B. Adams, William Driver, David Evans, Lorin
Farr, F. J. Kiesel, James N. Kimball, T. B. Lewis, Thomas
Maloney, Robert McFarland, H. H. Spencer, C. N. Strevell.

APPENDIX M

The Standing Committees appointed by the Convention of 1895

Rules and Methods of Procedure: John Henry Smith, Chairman; C. S. Varian, Charles H. Hart, W. H. Gibbs, David Evans.

Federal Relations: J. D. Page, James D. Murdock, Henry Hughes, William Buys, L. L. Coray, Mons Peterson, John S. Boyer.

Preamble and Declaration of Rights: Heber M. Wells, C. P. Larsen, Daniel Thompson, O. F. Whitney, William Creer, Andrew Kimball, Joel Ricks, R. W. Heyborne, William Driver, Moses Thatcher, T. B. Lewis.

Legislative: W. G. Van Horne, Frank Pierce, J. N. Kimball, Lauritz Larsen, Lorin Farr, B. H. Roberts, R. G. Lambert, George B. Squires, David Keith, Theo. Brandley, F. S. Richards, W. J. Kerr, Charles H. Hart, Ed. H. Snow, Ed. Partridge.

Judiciary: C. C. Goodwin, Frank Pierce, G. P. Miller, Elias Morris, Noble Warrum, Jr., Thomas Maloney, S. R. Thurman, S. H. Hill, W. G. Van Horne, Alma Eldredge, J. A. Hyde, C. W. Symons, Aquila Nebeker, David Evans, Joseph Murdock.

Executive: C. S. Varian, George R. Emery, Thomas Kearns, Daniel Thompson, W. G. Sharp, J. R. Barnes, A. W. Ivins, W. B. Preston, W. G. Van Horne, Richard Mackintosh, A. C. Lund, J. L. Jolley, Samuel Francis, J. D. Halliday, J. D. Peters.

Elections and Right of Suffrage: J. F. Chidester, Joseph E. Robinson, P. Christianson, Peter Low, Chester Call, Fred J. Kiesel, William Howard, S. R. Thurman, A. S. Anderson, Andreas Engberg, A. H. Raleigh, F. A. Hammond.

Apportionment and Boundaries: Alma Eldredge, Charles Crane, John R. Barnes, John F. Chidester, R. W. Heyborne, J. A. Hyde, Samuel Francis, Aquila Nebeker, C. P. Larsen, Joel Ricks, Lycurgus Johnson, E. H. Snow, L. B. Adams, Joseph R. Murdock, J. E. Robinson, R. A. Allen, F. A. Hammond, Harry Haynes, T. H. Clark, Geo. Cunningham, Willis E. Robison, W. H. Gibbs.

Education and School Lands: Frank Pierce, H. M. Wells, A. C. Lund, John R. Bowdle, Karl G. Maeser, A. J. Evans, W. J. Kerr, C. N. Strevell, Elias Morris, T. B. Lewis, E. H. Snow.

Public Buildings and State Institutions: Elias Morris, J. E. Thorne, Daniel Thompson, George Ryan, H. H. Spencer, H. F. Shurtliff, William Creer, A. J. Cushing, J. P. Low, E. E. Corfman, James C. Peterson.

Water Rights, Irrigation, and Agriculture: John R. Murdock, Theo. Brandley, J. J. Williams, James F. Green, Lycurgus Johnson, W. H. Maughn, Lorin Farr, Willis E. Robison, L. B. Adams, Lauritz Larsen, H. T. Shurtliff, L. L. Coray, Henry Hughes, Hyrum Lemmon, William Low.

Municipal Corporations: D. C. Eichnor, J. N. Kimball, John F. Bowdle, Lorin Farr, Noble Warrum, Jr., A. J. Cushing, J. D. Page, A. H. Raleigh, Geo. Cunningham.

Corporations other than Municipal: W. F. James, David Keith, William Driver, J. L. Jolley, C. H. Hart, Thomas Maloney, S. R. Thurman, William Buys, G. M. Cannon, D. S. Stover, G. P. Miller, R. A. Allen, Aquila Nebeker, Fred J. Kiesel, Edward H. Snow.

Public Lands: L. B. Adams, Samuel H. Hill, B. H. Roberts, William Creer, A. S. Anderson, H. G. Button, J. P. Low.

Revenue, Taxation, and Public Debt: George M. Cannon, George B. Squires, Harry Haynes, C. N. Strevell, James D. Murdock, William J. Kerr, A. W. Ivins, Abel J. Evans, Hyrum Lemmon, Jacob Moritz, Robert McFarland, Peter Low, Chester Call, David Evans, Moses Thatcher.

Salaries of Public Officers: R. Mackintosh, T. H. Clark, H. H. Spencer, John S. Boyer, George R. Emry, Thomas Kearns, William B. Preston, I. C. Thoreson.

Mines and Mining: Thomas Kearns, R. Mackintosh, George B. Squires, George Ryan, W. F. Sharp, O. F. Whitney, A. W. Ivins, William Howard, W. F. James, Samuel H. Hill, D. B. Stover, James C. Peterson, J. D. Peters, F. S. Richards, E. E. Corfman.

Labor and Arbitration: C. N. Strevell, Jacob Moritz, Edward Partridge, J. D. Peters, D. C. Eichnor, Lauritz Larsen, Andreas Engberg.

Printing: R. G. Lambert, Charles H. Hart, John R. Bowdle.

Militia: George Ryan, D. B. Stover, Edward Partridge, C. W. Jasper Robertson.

Manufactures and Commerce: J. A. Hyde, P. Christianson, Fred J. Kiesel, Joseph Thorne, Jacob Moritz, William Driver, Andrew Kimball.

Ordinance: R. W. Heyborne, D. C. Eichnor, F. S. Richards, J. F. Chidester, William Buys, H. G. Button, Moses Thatcher.

Schedule and Furniture, Amendments, and Miscellaneous: Joel Ricks,
Joseph E. Robinson, G. P. Miller, Samuel Francis, John D.
Halliday, James F. Green, J. J. Williams, B. H. Roberts,
Karl G. Maeser.

Accounts and Expenses: A. C. Lund, John R. Barnes, A. J. Cushing.

Engrossment and Enrollment: Mons Peterson, Theo. Brandley, William
J. Kerr, Heber M. Wells, William Low.

Compilation and Arrangement: Charles Crane, R. G. Lambert, Moses
Thatcher, C. C. Goodwin, O. F. Whitney.

APPENDIX N

Abstract of election returns held in the Territory of Utah
on November 5, 1895, for the acceptance or rejection of the Consti-
tution of the State of Utah.

<u>Counties</u>	<u>Constitution, Yes</u>	<u>Constitution, No</u>	<u>Total</u>
Beaver	534	148	682
Box Elder	1,163	185	1,348
Cache	2,608	246	2,854
Carbon	399	38	437
Davis	851	184	1,035
Emery	613	65	678
Garfield	390	65	455
Grand	104	57	161
Iron	512	32	544
Juab	888	316	1,204
Kane	221	14	235
Millard	705	119	824
Morgan	352	34	386
Piute	205	99	304
Rich	298	24	322
San Juan	82	12	94
Salt Lake	6,823	2,795	9,618
Sanpete	2,644	245	2,889
Sevier	1,068	130	1,198
Summit	1,405	514	1,919
Tooele	664	180	844
Uintah	434	71	505
Utah	4,221	743	4,964
Wasatch	666	80	740
Washington	705	25	730
Wayne	233	39	272
Weber	2,517	1,227	3,744
Totals	31,305	7,687	38,992

APPENDIX O

A CHART OF CONSTITUTIONAL DEVELOPMENT IN THE TERRITORY OF UTAH FROM 1849 TO 1895

Item	1849 - Deseret	1836 - Deseret	1862 - Deseret	1872 - Deseret	1882 - Utah	1882 - Utah	1895 - Utah
CIVIL RIGHTS	Religious freedom guaranteed. Trial by jury. Habeas corpus.	Same	Same	No religious test to hold office. Slavery prohibited 3/4 jury verdict needed in civil cases	Same	Polygamy prohibit. Sep. of Church and State.. 5/6 jury verdict needed in civil cases.	Same 3/4 jury verdict needed in civil cases.
SUFFRAGE	White Male Open ballot.	Male Same	Same	Male and Female Ballot determined by Legislature	Same Secret Ballot	Male Same	Male and Female Same
DISTRIBUTION OF POWERS	Same	Same	Same	Same	Same	Same	Same
LEGISLATIVE	Bicameral	Bicameral General Assembly prescribe & allot no. of Sen. & Rep. Sen. not less 1/3 nor more than 1/2 no. of Rep.	Same	Leg. compensated. 13 Sen. & 26 Rep. No. Sen. not to exceed 30, Rep. not less twice no. of Senators. Apportionment based on population.	Same	Same	Same
EXECUTIVE	Governor salaried. Veto 4 year tenure	State officers salaried	Same	Same 2 year tenure	Same	Item veto on money bills. Same	Same 4 year tenure.
JUDICIARY	Supreme Court. Leg. to provide for inferior cts. Supreme Court justices elected by Gen. Assembly	Supreme Court district courts inferior courts 11 judicial circuits.	Supreme Courts circuit courts probate courts inferior courts	Supreme Court circuit courts probate courts municipal courts JP courts Cir. Ct. elected by pop. election	Same 3 judicial circuits.	Same 4 judicial circuits	Same
EDUCATION			Educational development to be encouraged.	Educational system to be impartial	Free public sch. Sectarian doctrine proh. in schools supported wholly or in part by public funds.	Same	Free non-sectarian school system. No religious test for students and teachers. No public aid to Church schools Supt. Public Inst.
TAXATION				Equal taxation Mines and miners protected.	Mines bearing precious ores exempt for 10 years	Same	Special exemption for mining.
MISCELLANEOUS	State boundaries included 2/3 of present-day SW United States.	Boundaries by the admission of California in 1850.	Boundaries reduced.	Congress to set conditions for admission.	No female to serve as juror.		Blacklist prohibit. Board of Labor. Forests to be preserved.

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