

courts for a county would be for offences against the Territorial laws committed in the county. If there are none of those on the docket, of course there is no necessity for his Honor holding court for a county. But he does not give this as a reason for his refusal.

If the six days in each district term give insufficient time to dispose of U. S. cases, that is a matter for Congress to act upon. But we do not hear that Congress has been informed of this impediment. The Judge probably never thought of it before.

His Honor says the term of the District Court is pending. Of course it is, and the way he conducts things he always will have a term pending, from now till Doomsday, for one term will pend till another takes up the wondrous tale.

### THE CACHE COUNTY PROBATE JUDGESHIP.

THE Probate Judge of Cache County, William Hyde, of Hyde Park, Cache Valley, died on the second day of March of the present year. He was a man of ability and probity, long and well and extensively known and highly respected by the people of that county and of many other counties in the Territory.

The mortal remains of the deceased judge were scarcely cold, ere a certain small minority party went to work to intrigue for the appointment of a successor to the office. A recommendation from the Rev. Mr. Stoy, a M. E. preacher, formerly of Montana, was procured in favor of Mr. John Nelson, for gubernatorial appointment to the office, and Governor Woods was telegraphically asked to give the office to Mr. Nelson. The Rev. Stoy had been a resident of Cache Valley but six months. He was not acquainted with the people nor in sympathy with them, being comparatively a stranger to all of them and an utter stranger to most of them. He knew very little of their circumstances, feelings, or wishes, and very little of the nature of the office to be filled and of its duties and responsibilities. His course during his residence in that valley had not been such as to procure him the good feelings of the people, being considered by them more as an enemy than a friend, and he was one of the last personages to whom the people would have gone for advice in this matter of the judgeship, or any other. Yet this man's recommendation was sent to the Governor, and upon that recommendation the Governor immediately acted, appointing Mr. Nelson to the vacant judgeship, an act certainly of wilful insult and outrage to the people of the county generally.

Who was this Mr. Nelson? Was he a man acceptable to the people of the county? Not in the least. He was a man they never would have chosen. He was not favorably known to them. He was considered by them an enemy, indubitably. He was but a very recent resident of the county or the Territory. Yet he was chosen and appointed by the Governor, in the exercise of his authority, to temporarily fill such vacancies by appointment. This hurried appointment, before the grave was closed over the remains of the deceased judge, before the Governor had received any official and legal information concerning the death of the judge, was in violation of all conventional propriety, and an outrage upon common decency.

What was the action of the people of the county under the circumstances? As all people, who had any respect for the deceased official, or any regard for the ordinary decencies and proprieties of life, would do, they first attended to the obsequies of the late judge, according to the custom of the country, waiting until they were over before they took measures concerning his successor.

After the funeral, the Select-men of the county telegraphed to Governor Woods concerning the death of Judge Hyde, and requested the appointment of Mr. Milton D. Hammond to succeed him in the office of Probate Judge. The Governor answered that he had already appointed Mr. John Nelson Probate Judge before obtaining their dispatch.

The following gave the Governor official documentary evidence of the decease of Judge Hyde—

"Territory of Utah, } s.s.  
Cache County,  
Logan City.

"To His Excellency,  
Gov. George L. Woods.

"I, James A. Leishman, County and Probate Clerk in and for said County, hereby certify that the Hon. Wm. Hyde, Probate Judge in and for said County, departed this life the 2nd day of March, A. D. 1874, thereby causing a vacancy in that office.

\* L. S. \*

"Witness my hand and seal of the Probate Court of said County this 5th day of March, A. D. 1874.

"JAMES A. LEISHMAN,  
Probate Clerk."

The following petitionary documents were also forwarded to his Excellency—

"To His Excellency  
Gov. George L. Woods."

"Whereas, on the 5th instant, you telegraphed William Maughan, Logan, 'I had appointed John Nelson Probate Judge before your dispatch came,' vice William Hyde, deceased; and

"Whereas John Nelson is ineligible to said office in consequence of the following statute—'No person shall be elected or appointed to any Territorial, District, County or Precinct office unless he has been a constant resident therein during at least one year next preceding such election or appointment;' and

"Whereas said John Nelson did hold the office of Probate Judge in Oneida County, Idaho Territory, to March 22nd, 1873, and did not move into this Territory until a much later date.

"Therefore, we, the undersigned citizens and legal voters of Cache County, respectfully request your Excellency to reconsider said appointment and suggest a careful consideration of the petition which is herewith forwarded your Excellency, and make the executive appointment agreeable with the expressed wishes of so large a majority of the bona fide citizens of Cache County, and recognize that 'all men are created and endowed by their Creator with certain inalienable rights, and that governments are instituted among men, deriving their just power from the consent of the governed.'

"All of which is respectfully submitted.  
"Logan City, March 5, 1874."

"To his Excellency Gov. George L. Woods.  
"Your petitioners would respectfully represent that the death of the Hon. William Hyde, late Probate Judge of Cache County, has left vacant an important county office;

"Therefore we respectfully petition that your Excellency appoint Milton D. Hammond Probate Judge of this county, to act in said office until August election.

"And your petitioners in duty bound will ever pray.  
"LOGAN CITY,  
March 4, 1874."

The above petition received 2140 signatures.

As legal evidence of the ineligibility of Mr. Nelson to the office to which the Governor so hurriedly appointed him, the following official information and certificate was obtained—

"Territory of Idaho, } s.s.  
County of Oneida.

"This certifies that the last official act of John Nelson as Probate Judge of Said County, as per Probate record, was performed on the 22nd day of March, A. D. 1873, in the case of David Bowie, vs. Lyman Hawkins.

\* L. S. \*

"Witness my hand and seal of the Probate Court of Oneida County this 10th day of March, A. D. 1874.

"THOS. W. RICHARDS,  
Probate Judge and ex-officio Clerk."

We are informed that Mr. Nelson was not a resident of Cache County for two or three months after the date of that official act of his in Oneida County, Idaho Territory, and therefore was ineligible, by lack of three or four months' residence, to the office of Probate Judge of Cache County, Utah Territory. Consequently, his appointment, by

Governor Woods, to that office, was not only done with unseemly haste, but was positively illegal, done in absolute opposition to and defiance of the law. Mr. Nelson, therefore, though appointed and commissioned by Governor Woods, is not the legal Probate Judge of Cache County, and the office, consequently, is yet virtually vacant. The Governor's appointee, Mr. Nelson, cannot do the first legal judicial act pertaining to that office, and if he attempts to do any, he will not only be acting unlawfully, in undoubted defiance of law, but he will commit injustice and lay the foundation for much litigation, while the office which he assumes to hold was created for the express purpose of settling litigation and administering law and justice.

Yesterday (Friday) Hon. Judge Z. Snow, Territorial Attorney General, and Mr. James A. Leishman, County Clerk of Cache County, waited upon the Governor, with the above petition and accompanying documents, to reason with his Excellency and hear what he had to say upon the subject. After much parleying the Governor declared that, as he had appointed and commissioned Mr. Nelson, he could not and would not remove him, thus leaving the county of Cache without a legal Probate Judge, and that office legally vacant.

There is no necessity for the Governor to remove Mr. Nelson from the office, because that person does not occupy it, being ineligible, and therefore it not being legally possible for him to occupy it. If he attempts to occupy it, it will be by force of unwarrantable assumption, sheer usurpation. His commission is of no more legal force, authority, or account, than so much waste paper. There is no necessity of removing an official who is actually no official.

As the appointment of Mr. Nelson is illegal and as consequently his commission is void and of none effect, the plain and positive duty of the Governor in the matter is, not to remove Mr. Nelson from office, for he holds none, but to appoint to the still vacant office some person who is eligible, to serve until the August election. As the Governor, in his haste, has made a bad mistake in regard to this appointment, it is his duty to early rectify the mistake, and it is due to the public concerned that he inform them of his mistake, and of his rectification thereof, when the latter shall have been made. It is no part of his duty to impose an illegally appointed official upon any portion of the people.

As the matter now stands, it is nothing to the credit of the Governor, but has an exceedingly ill appearance for him. He has acted with great imprudence, but it is never too late to mend, and, if he is disposed to rectify his mistake and become entitled to the good opinion of the people in this business, there is a way for him to do so, which way we have plainly indicated. But as things are at present, he has done a bad thing, has acted very injudiciously, has indeed committed an egregious blunder, and he seems to be very ungracious, stupid, mulish over it now it is done, rather than intelligently conscious of his mistake, and prudently anxious to amend it.

Let us summarize a little—

1. He acted with indecent haste in nominating a successor to the office before the corpse of the predecessor was laid in the earth, or the funeral rites had been attended to. There was not the slightest necessity for any such hurry. It was utterly inadvisable and indefensible.

2. He acted inconsistently in appointing a person on the recommendation of a stranger to the people and their wishes, to the office and its duties and responsibilities.

3. He acted unwisely, arrogantly, and insultingly, in appointing a person whom he knew very well was especially obnoxious to the people, and considered by them their undisguised enemy.

4. He acted illegally in appointing a person who was and is ineligible to the office.

5. He acted uncivilly, discourteously, ungentlemanly and with an offensiveness entirely superfluous and unwarranted, and exceedingly discreditable, in refusing, when his error was unmistakably pointed out, to do anything to rectify it, or to gratify in the least the reasonable wishes of the people.

6. He committed a great outrage upon the people in appointing to

important office a person who would not have been voted for by 150 voters of the county, and in refusing to accede to the reasonable petition of 2140 of the people of that county to appoint a person whom they respected and in whom they had some confidence.

7. The course of the Governor in this appointment was an outrage on propriety, an outrage on decency, an outrage on the people, and an outrage on the law.

8. His refusal to revoke or reconsider his acts of appointment and commission, or to appoint an eligible and more acceptable person, was a confirmation of all these outrages, and a disgrace to the governorship.

### WHAT FOR?

THE question arises again and again, what were several of the Federal officers for Utah appointed by President Grant, confirmed by the Senate of the United States, and sent to Utah for? What were their legitimate and proper duties after arriving here? What was expected of them by the government, by Congress, and by the public at large? Of the great mass of Americans, the people of this Territory generally appear to have been the only portion who were supposed to have no possible interest in those officers or in their official conduct, so we do not ask what the public hereabout expect of those gentlemen.

The opinion or voice of the people of this Territory seems not to be required, nor expected, neither welcome nor in the least degree acceptable, judging by the course of some of those officials and the conduct and spirit of their supporters. So what the people of Utah may think of those officials, what they do, or what they ought to do, is nothing whatever to the purpose of this article. But still the question must occur and recur to American citizens outside of Utah—what were those officers appointed and sent here for?

Was the Governor, for instance, sent here to insult and annoy the people and their representatives? Was he sent here to veto the acts of the local legislature? Was he sent here to set himself, on every possible occasion, squarely in opposition to the wishes of the people? Was he sent here to appoint, whenever he made any appointments, the very men whom the people never would vote for as long as they lived, and whom the people considered their inveterate and unprincipled enemies? Was he sent here to play entirely into the hands of a very small minority, and to the prejudice of the overwhelming majority of the people? Was he sent here, to truckle to and plot and conspire with that small and revolutionary minority, to the prejudice of the peace, good order and prosperity of the whole community? Was he sent here to endeavor to throw out of office every local officer, every officer chosen by the votes of the people, or the votes of their chosen representatives, and place in those offices men who were the enemies and the abomination of the people? Was he sent here to send Carey back to Washington to see the atrocious McKee bill through Congress? Was he sent to go about making and promising and threatening to make changes in this, that, and the other local office and institution, purely in opposition to the will of the people, and to vex them all he could?

What was the Chief Justice sent here for? Was he sent here to hold illegal court for a year and a half, and thereby illegally deprive better men than he of liberty, put them to enormous expense, put them in jeopardy of their life, and hold confiscation of their property, in *terrorem*, in *suspensio*, or in *actu*, over their devoted heads? Was he sent here to persist in that illegal course until checked by the U. S. Supreme Court? Was he sent here to administer as little law and as much illegality as the Supreme Court of the United States would let him? Was he sent here to mix up Territorial and Congressional law in such a manner that it would puzzle a Philadelphia lawyer to practice in his court? Was he sent here to *habeas corpus* notorious criminals, in order that they should not receive justice from the

local courts? Was he sent here to sit on his judicial haunches, when the Supreme Court at Washington had put an end to his illegal court, and sulkily refuse to do anything, or let anybody else do anything? Was he sent here to become a pattern of masterly inactivity, waiting, like Micawber, for something to turn up, for Congress to turn the McKee bill up, for instance, or until he could procure powers, courts, juries, marshals and attorneys after his own heart?

Was the Marshal sent here that he might exhibit himself as a specimen of intemperance, uncouthness, unkemptness, frownsiness, illspokenness, and profanity? Was he sent here that he might go stumping around in political campaigns? Was he sent here that he might go back to Washington and endeavor to oust the choice of the people for delegate, and place his own repulsive carcass in the delegate's chair? Was he sent here that he might go back to Washington and lobby and logroll and spend the small minority's money in endeavoring to effect the passage of such infamous bills as McKee's, or Frelinghuysen's, or Logan's? Was he sent here that he might spend his salary from Congress and his fees from the people in this manner? Was he sent here to go back to Washington to try to get bills passed that would enormously increase his fees, and his power over the people?

What was Carey, the Attorney, sent here for? Was he sent here to plot and conspire with the "ring," and become a "ring"-leader of the "ring," in their evil designs upon the rights and liberties of the people? Was he sent here that the Governor or any other man might send him back to Washington to push the McKee bill through? If not, what was he sent here for?

These are pertinent questions. Those officials certainly were sent here for some purpose. What was that purpose? What did the President and Congress appoint them for? What are the services which they are expected to render to the people? What is the peculiar *quid pro quo* which those officials render to the public, for the thousands of dollars which they draw out of the public purse?

Lastly, has that rule, strictly requiring all federal officials to reside in their fields of proper official labor, unless under special leave of absence, been extended to Utah, or is this Territory excepted from that rule?

D. A. & M. Society.—Meeting of the Board of Directors of the D. A. & M. Society held at 2 p.m., March 14th, W. Woodruff in the chair:

The committee on irrigation reported that they had petitioned the City Council for the control of the water from the springs in Union Square and the block west of the same.

Director Rockwood, supervisory committee of class A, reported list of premiums for that class in 1874, which was read, amended, and adopted.

Director Pack moved that Director Rockwood be instructed to send for two barrels of cranberry plants, to be distributed under the direction of Directors Reading and Wallace.

Director Campbell, Supervisory Committee of Class P, Essays, reported a list of premiums for said class, which was amended and adopted.

Director Reading, of the same committee, reported a list of premiums for class C, which was adopted.

Director Musser moved that the mile drive to be constructed by the Society be made fifty feet wide, and on the outside of the Fair Grounds or Agricultural Park.

Adjourned till next Saturday at 6 p. m.

Attest, JOAN M. CAMPBELL,  
Secretary.

### DIED.

At the residence of her son, Robert R. Anderson, 20th Ward, Salt Lake City, Sunday, March 15th, 1874, at 12:50 a.m., of heart disease, JANE, wife of John Anderson, late of Leith, Scotland.

Deceased was born at Dennyloanhead, Stirlingshire, Scotland, March 9th, 1807, and her death is deeply regretted by her children and her many friends, who universally respected her.—Com.

Funeral took place to day at 2 p.m.