

EDITORIALS.

"STRAINING AT A GNAT," Etc.

A SINGULAR case with a singular decision was concluded May 27th, in the First District Court at Provo, Judge Schaeffer presiding, who only a little while ago considered himself removed, and who dismissed the Grand Jury of the Third Judicial District then in session, in consequence of such removal. David Candland, a Justice of the Peace for the city of Mount Pleasant, in Sanpete County, was tried on an indictment for false imprisonment and, being found guilty, was sentenced to pay a fine of \$75 and cost, the whole sum amounting to \$181. He was allowed thirty days in which to pay the money, in default of which he is to be imprisoned for six months.

The history of the case is as follows: On the 25th of March, 1878, Justice Candland was summoned by some citizens of Mount Pleasant to suppress a disturbance of the peace within the city limits, and thereupon went to the house of Mr. James J. Evans, where he saw Levi F. Pritchett assaulting and beating Evans. He thereupon arrested Pritchett in the name of the law, and called on two citizens to bring the belligerents before him as Justice of the Peace. Pritchett acknowledged the arrest, and when brought into court said, in answer to the Justice, that he was ready for trial and wanted no attorney. Three witnesses were examined and the blame clearly placed on Pritchett, but as Evans had also disturbed the peace, he was fined \$5, which he paid. Pritchett became abusive, was fined \$5 for contempt, and subsequently \$25 for the assault and disturbance. In default of payment, he was committed to the custody of a deputy Marshal. He very shortly after escaped.

Next morning Justice Candland issued his warrant for the arrest of the escaped prisoner, who, being captured and brought before him, obtained legal assistance and offered to give his note for the amount of the fine and costs. The Justice states that he had been previously notified by the City authorities that they would not any more receive the notes of convicted offenders, as the collection thereof generally involved the expense of a civil suit, and that imprisonment must be enforced when fines were not paid, as the notes could not be taken into the City Treasury. In consequence of this the note was declined and the defendant committed. An appeal was then demanded to the First District Court. But no affidavit or statement of error being filed, the Justice refused the appeal until the proper papers should be perfected. A writ of mandamus was then obtained from the District Court, requiring the Justice to grant the appeal on the perfecting of the papers. This was complied with, and the appeal granted, as it would have been without the mandamus, if the needful forms had been complied with.

Before the appeal could be heard, a compromise was effected between Pritchett and his counsel and the Mount Pleasant authorities, he to pay the costs, and the whole affair to be dropped. This took place on the 25th of last March. On the 27th Justice Candland was arrested on a criminal prosecution and the result is given above.

Now let us see wherein the offense of the Justice is said to have consisted. It was claimed by the District Attorney that the magistrate had no right or power to arrest the defendant Pritchett; and that when arrested and tried he had no right to decline receiving his note for the amount of the fine. These points are put forth on the following grounds: Section 76 of the Act on Criminal Procedure, passed at the last session of the Territorial Legislature, says: "A magistrate may orally order a peace officer or private person to arrest any one committing or attempting to commit a public offense in the presence of such Magistrate."

Section 2264 of the Compiled Laws of Utah provides that a court is authorized to order the imprisonment of a person convicted and fined, "until such fine and costs are

paid or secured to be paid to the satisfaction of the court."

Now it appears that Justice Candland erred somewhat in personally arresting the defendant Pritchett, that is, under a strictly technical rendering of the letter of the law. But a Justice or Police Magistrate is made "a conservator of the peace." A private person as well as a peace officer may arrest any one committing a public offense in his presence, (see sections 74 and 75 Criminal Procedure,) and it looks like straining a point against the Magistrate to punish him for false imprisonment, when his action was done in the spirit of "a conservator of the peace," and not in any malice or evil design towards the person arrested, who was committing an assault in the magistrate's presence. True, Mr. Candland was not a "peace officer" as defined in the law, nor then acting as a "private person," but we do not think if he were not a "Mormon" Magistrate any court would be found to punish him for his course in suppressing a breach of the public peace. In case of riot a magistrate is required to make arrests if the parties do not disperse (Ibid, Sec. 36,) and it certainly looks like a splitting of legal hairs to make this slight error a punishable offense.

The Justice was also in error, perhaps, in not giving the defendant, Pritchett, an opportunity of securing payment of the fine imposed, but he had his remedy on appeal, and Mr. Candland was perfectly willing to accept anything from the defendant which would have been satisfactory to the municipal authorities whose ordinances had been violated. And this suggests a point that we think ought to have been fully exhibited at the trial in the District Court. The action against Pritchett was not conducted under the Territorial Statutes, but under section 2 of the Ordinances of the City of Mount Pleasant, and it certainly looks as though the regulations of those ordinances in such cases should have been taken to govern the action of the Justice, rather than those of the territorial laws.

But leaving this out of the question, why is it that Judge Schaeffer is so anxious to make an example of Justice Candland as a check to an undue exercise of the power of local magistrates, but would not pronounce any censure or inflict any punishment when a Marshal of his own court overstepped the bounds of his authority by imprisoning Dr. Clinton in the penitentiary, putting him in irons, exposing him in the "sweat box" and otherwise torturing the prisoner, who was not a convict but only awaiting trial, and according to law ought to have been detained in the County jail? Justice Candland's case is simply one of error without grave consequences. The other case was one of cruelty, malice and unlawful force, done designedly in the spirit of the Spanish Inquisition for the purpose of forcing supposed secrets out of the suffering prisoner. Is this partiality, or is it equal justice? Does this savor of equality before the law? Or does it look like putting the screws on to the "Mormons" whenever the ghost of a chance is offered?

We advise Justices of the Peace throughout the Territory to endeavor to post themselves fully in regard to the extent of their power and jurisdiction, that they may not err through lack of knowledge, and we hope that if the Mount Pleasant municipal authorities instructed their Magistrate to receive only cash for fines and thus compelled him to take a course which has brought him into difficulty, that they will honorably assist him out of the consequences of adhering too strictly to their requirements.

THE WELSH EMIGRATION FUND.

LAST year the Welsh saints in Utah made a very praiseworthy effort towards the liberation of their co-religionists in the Principality, from the poverty and distress consequent upon the lack of employment through the closing of iron works and mines. In this they were assisted by their brethren and sisters of other countries, and quite a large number of people from the hills and valleys of Wales were assisted to emigrate.

We do not think it right to encourage anything that tends to nationality, that is the preference of the natives of one country above those of another. But under the peculiar circumstances which pressed upon the famine-stricken people of Wales we endorsed the movement and were pleased with its success, and would like to see the same spirit of mercy and charity exercised by the Saints of all nations towards their friends who are still scattered abroad.

We now draw the attention of the agents who acted in aid of the Welsh Fund last year to the fact that there are some promises of aid in different parts of the Territory left unfulfilled; also that some donations in stock, produce, etc., have not yet been made available. It is desired by Elders Morris and Evans that the account be closed up at once and the balance of the means promised or donated made available for the present season. They wish the agents of last year to act in the present year, and either turn the means to be obtained into cash as soon as possible, or on failure to do so forward it in its present shape to the committee, who will cash it themselves and use it as far as it will go for the benefit of the poor who are anxious to gather to Utah.

They wish to mention one case as a sample of others in the settlements. Father Ormond, of Corn Creek, after donating \$145 in cash last year, promised to give two cows to any one else's one cow there in aid of the Welsh Saints. Some twenty cows were promised in that place but they have not yet been received. Now let all who have agreed to donate either in stock, grain or any other kind of pay settle up at once, that the committee may wind up this special emigration concern and close the account this season.

This will not shut out the Welsh saints from the benefits of the general fund for the emigration of the poor, but merely conclude this special effort on their behalf. The Perpetual Emigration Fund is the regular and ordinary channel through which the liberality of the people should flow for the redemption of the scattered poor of all nations, and it is to be hoped that this will not be lost sight of by those of any nationality who have come up into the tops of the mountains, to learn the ways of God and escape the calamities impending over the world.

EDITORIAL NOTES.

Rutherford B. Hayes will be known to posterity as the Veto President. The country has found out that he has backbone and can keep it stiff as long as the occasion demands. There is no symptom of back-down in his conflict with the Democracy.

Cotton brings this country more than \$200,000,000 per year. Breadstuffs last year brought the country 181,777 \$41 from abroad, and since 1865 has brought an average of \$60,000,000 per year. Our animal products, cattle, hogs, etc., rank next in importance in our export trade amounting last year to \$133,232 575.

The life of Joseph Smith, in the Danish language, compiled by Bros. A. Jensen and J. A. Bruun, is now completed, the last three numbers, with a copious index and the title page and preface, having just been issued from this office. The compilers feel highly gratified at the success of their undertaking, as the *Levettobol* has been liberally patronized by the Scandinavian Saints.

The Old Folks' excursion party, as per previous announcement in this paper, will go to American Fork this year. Persons over seventy years of age, without regard to sex, creed, color, race or previous condition of any kind, will be taken free and provided with refreshments gratis on this pleasant holiday. This is one of the plainest proofs that can be given of "Mormon" intolerance. Cannot this be construed into "hostility to republicanism and treason against the Government?"

The *Millennial Star*, of May 12, appears in a new dress. Its appearance is greatly improved, the type being somewhat larger than the old style, and much more easily read. The *Star* shines with undimmed lustre in its forty first

volume and is always a welcome visitor. It is conducted in a manner very creditable to those engaged in its publication, and while it is specially the organ of the Church in Europe, is well worthy of the patronage and perusal of the Saints in Utah. We congratulate President Budge and Elder Nicholson on their success in the literary work of the British Mission.

Perspicuity is commendable in prayer especially during public worship. Not that Deity cannot comprehend the desires of the heart, but that the congregation may understand and unite in the petition. But the following incident seems like carrying this principle to an extreme: "The Rev. A. P. Kendig pastor of the Trinity Methodist Episcopal Church in Worcester, Mass., in his prayer just before his farewell sermon, asked the Lord 'to bless the one who, although hidden from sight, yet contributes so much to the musical part of our worship,' and then, as if fearing he would be misunderstood, added, 'O Lord, I mean the boy that blows the organ.'"

MILLARD STAKE CONFERENCE.

The regular Quarterly Conference of the Millard Stake was held in the State House, Fillmore City, Saturday and Sunday, May 24th and 25th, 1879.

Saturday, 10 a. m.
Present on the stand: of the Presidency of the Stake Ira N. Hinckley, Edward Partridge, Jos. V. Robinson, Bishops from all the wards in the Stake, also a large representation of the people.

After devotional exercises, Elder Edward Partridge addressed the conference upon the necessity of faith in the priesthood and in everything we have to do in the Kingdom of God, and also showed the necessity of honoring the name we bear.

Elder Jesse B. Martin followed, giving his experience in the church to early days and the goodly portion of the spirit of God that the people used to enjoy in consequence of their great faith.

2 p. m.
The clerk read the statistical reports.

Bishops A. A. Kimball, Daniel Thompson and D. R. Stevens occupied the time upon the restoration of the gospel, the necessity of uniting together both temporally and spiritually.

President Hinckley followed with a few encouraging remarks.

Sunday, 10 a. m.
After the usual devotional exercises, Elder Thomas Callister gave a very interesting discourse; said the duties of to day were what required our attention; referred to the necessity of educating the young and thereby making them fit subjects for baptism at the age of eight years; referred to the gathering of Israel in these the last days.

Bishop P. D. Lyman said there was no principle in which we are justly engaged, but pertains to our religion, whether temporally or spiritually; referred to union, showing that it was impossible to become united without confidence in each other. His discourse was accompanied with the spirit of his calling.

Elder Jos. V. Robinson showed that the losses we had sustained in co-operation in a great measure had been brought about by crediting, which course is ruinous to the people as well as the institutions that credit.

President Hinckley said the kingdom of God was worth all else besides, and he wished to be ever found working for the same; said we had listened to some excellent remarks and we would do well to profit by them.

In the afternoon the general and local authorities were presented and unanimously sustained.

Elders Nephi Pratt, Ed. Partridge and Jos. V. Robinson made some interesting remarks upon co-operation and the general duties of the Saints, showing that we should cultivate a spirit of brotherly love towards each other.

President Hinckley offered a few closing remarks thanking the people for their good attendance and the choir for their indefatigable efforts to make sweet music for us.

Saturday evening there was a meeting of the priesthood to consider the Articles of Association in

the Board of Trade, which were read and unanimously sustained. The conference was well attended and a good spirit predominated from beginning to the close.

L. HOLBROOK,
Stake Clerk.

Grand Gala Day for the Old Folks.

We cordially extend our annual invitation to all our aged friends of 70 years old and upwards, of every creed and color living in this city and vicinity, to accompany us on a free and gratuitous visit to American Fork City, on Tuesday, June 24th, 1879.

Through the courtesy of Bishop Harrington and the citizens of that place, every necessary preparation will be made for their comfort and enjoyment.

We propose to invite a few persons over 70 years old from every settlement in Utah County to fraternize with us on that occasion, thus giving the veterans of that county an opportunity to meet with their old friends from Salt Lake County.

On the 22nd of June, our worthy presiding Bishop, Edward Hunter, will be 86 years of age, and it was intended for the excursion to come off on that day, but falling on Sunday we have fixed it for the Tuesday following.

The Bishops of each ward and ministers of every denomination are hereby requested to furnish a list of names and ages of persons of 70 and upward to the office of Bishop Hunter, when the necessary tickets will be furnished.

The excursion will be accompanied by bands of music and choristers. Refreshments will also be furnished free to the excursionists en route.

A limited number of tickets will be sold at \$1 each to friends of old folks who wish to accompany them.

Blind persons over 70 and cripples are permitted to have a companion to assist them.

The programme of proceedings at American Fork will be announced at an early day.

Committee of Arrangements—Edward Hunter, George Goodard, C. R. Savage, W. Eddington, Wm. Naylor, W. L. Binder, John Kirkman.

P. S. Voluntary contributions will be thankfully received by the committee in aid of the enterprise.

AN UNPUBLISHED STATUTE.

Editors Deseret News:

Will you please insert in your paper the following act of the Legislature approved January 11, 1865, which has not been published and is not in the "Compiled Laws."

ROBERT SKELTON,
Mayor of Tooele City.
JOHN DUNN, Recorder.

AN ACT

Changing the boundary of Tooele City in Tooele County.

Sec. 1.—Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That the first section of an act to incorporate Tooele City, in Tooele County, relating to the boundaries, shall be amended to read after the enabling clause as follows: That all that portion of country situated within the following boundaries, to wit: beginning at a point one mile due south from where the county road crosses the big creek, at the mouth of the Settlement Cañon, thence east two and a half miles, thence north five miles, thence west four and a half miles, thence south five miles, thence east two miles to the place of beginning.

SEC. 2. All that portion of the first section of an Act to incorporate Tooele City, in Tooele County, approved January 13th, 1853, conflicting with this Act is hereby repealed.

GEORGE A. SMITH,
President of the Council.

JOHN TAYLOR,
Speaker of the House of Representatives.

Approved Jan. 11, 1865.

JAMES DOANE DOTY,
Governor.

United States of America, } ss
Territory of Utah.

I, Arthur L. Thomas, Secretary of the Territory of Utah, do hereby certify that the foregoing Act, en-