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TRUTH AND LIBERTY.

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EDITOR AND PUBLISHER.

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WANT of space prevented us yesterday from noticing the statement of Judge McKean respecting the selecting, summoning and impanneling of Grand Jurors in this Territory while Governor Brigham Young was the Chief Executive of the Territory. The Judge in his opinion, published in our columns last evening, said: "Had the counsel first investigated this question, he would have found that when Brigham Young was Governor of this Territory, and his selected friend, Judge Snow, now one of his counsel, sat upon the District and Supreme Bench of the Territory, grand jurors were for years selected, summoned and impanneled precisely as they now are."

We did not intend to allude to the Judge or his proceedings while this case was on trial, unless we saw that the interests of truth would suffer by our silence. We wished to refrain from all comments upon the proceedings. But to suffer the above statement made by Judge McKean to pass without remark or explanation would be, in our opinion, criminal in us. Charity leads us to the conclusion that the statement was made by the Chief Justice in, at least, partial ignorance of the facts; for we give him the credit of sufficient common sense to perceive that it would never answer for him in giving an opinion which would go to the entire country, to misrepresent proceedings of Courts with which hundreds of persons are familiar, and the chief actors in which are still alive.

Now we will give the facts concerning the procuring of juries and holding of courts in those early days. In the fall of 1850 Hon. Z. Snow was appointed a United States Judge for the newly organized Territory of Utah. In the summer of 1851 he arrived in this Territory, in pursuance of his appointment. In the fall of that year the Territorial Legislature assembled for the first time under the Organic Act. One of the first Acts of the Legislature was to provide for holding Court in Salt Lake City. At that time there existed no law of the Territory or of Congress, prescribing the qualifications or the manner of selecting and summoning jurors in this Territory, nor had there been any officers, such as sheriff or Territorial Marshal created by law.

Under these peculiar circumstances, and being required by law to hold court in some way, Judge Snow resolved to procure juries on the principle of the common law, letting the U. S. Marshal select and summon them from the lawful voters in the body of the district. With jurors so selected and summoned, Judge Snow held the first Court, in this Territory, under the organic act.

After the holding of the Court, and before the close of the Legislative session, the Legislature passed an Act, concerning civil procedure, sec. 11 of which provides for the calling of jurors—

"Previous to trial, when the sum in question exceeds twenty dollars, if either party request a jury, the court shall issue an order to the proper officer, requiring him to summon for that purpose, not less than three nor more than twelve qualified persons and residents of the county."

A law providing for a Territorial Marshal was passed by the Legislature in March 1852. Sections 1, 2, 3 read as follows—

"Be it enacted by the Governor and Legislative Assembly of the Territory of Utah: That a Marshal shall be elected by a joint vote of both Houses of the Legislative Assembly, whose term of office shall be one year, unless sooner removed by the Legislative Assembly, or until his successor is elected and qualified. Said Marshal shall, before entering upon the duties of his office, take an oath of office, and file bonds with securities in the penal sum of not exceeding twenty thousand dollars, conditioned for the faithful discharge of his duties, which bond with securities is to be approved by the Secretary of the Territory, and filed in his office.

"Said Marshal shall have power to appoint one or more Deputy Marshals in each judicial district of the Territory, as the necessity of the case may require, whose term of office shall expire with that of the Marshal; but they may at any time be removed at his discretion.

"It shall be the duty of the Marshal or any of his Deputies, to execute all orders or processes of the Supreme or District Court, in all cases arising under the laws of the Territory, and such other duties as the executive may direct, or may be required by law pertaining to the duties of his office."

In January, 1854, the Legislature passed a law providing for sheriffs, which reads as follows—

"Be it enacted by the Governor and Legislative Assembly of the Territory of Utah: That at the next general election, and every two years thereafter, a Sheriff shall be elected in each county, whose term of office shall be two years, and until his successor is qualified.

"Before entering upon the duties of his office, the Sheriff shall give bonds in at least five thousand dollars, with approved security, and take and subscribe an oath for the faithful performance of his duties; said bonds and oath to be approved by the Probate Judge, and filed in the office of the County Clerk.

"The Sheriff may appoint a deputy or deputies, for whose acts he shall be responsible; and who shall qualify in the same manner as the Sheriff, except that the bonds may be in the sum of two thousand dollars each.

"When a reasonable compensation is tendered or satisfaction given that the costs of service will be reasonably paid, it is the duty of Sheriffs and Constables to faithfully and diligently execute all orders, processes and requirements of a court, under penalty of whatsoever costs, damages and fine may be adjudged."

Judge Snow continued to employ the U. S. Marshal in selecting and summoning juries until those laws were passed. After they were passed and the officers named were provided, he left jury matters in the hands of those officers according to the statutes. In each instance he followed the law—the common law, in the absence of the statute law, in using the U. S. Marshal; and the Territorial law, when made, in using the Territorial Marshal and the Sheriff.

In 1853 the Legislature passed an Act regulating the mode of procedure in criminal cases. Sections 9 and 17 refer to traverse and grand juries—

"In jury cases, before the introduction of any evidence, the Court shall issue an order, requiring an officer to summon for that purpose a reasonable number of judicious men, residents of the county, out of which twelve, or a less number if agreed upon, shall be selected; and if the number first summoned is not sufficient, the officer shall continue to summon till the number is complete.

"When necessary, the court shall issue an order requiring an officer to summon fifteen judicious men, residents of the county, for a grand jury, who shall be sworn to inquire faithfully into offences, and present indictments by the agreement of at least twelve of their number against offenders who should be prosecuted; and the Foreman shall have power to swear witnesses and compel their attendance."

Thus the law continued until Jan. 21, 1859, when the present law of the Territory, prescribing the qualifications of jurors, and the manner of selecting and summoning them for District Courts, was passed by the Legislature and signed by the Governor. Since that date until 1870 all the U. S. judges, without exception, followed the Territorial law. Under Judge McKean from 1870 the Territorial laws in relation to Territorial officers and to jurors, have not been respected as previously by the Federal judiciary.

We submit the above statement of facts to the Chief Justice, with the hope that, having publicly stated that grand jurors were for years selected, summoned and impanneled as they now are, he will be so fair to himself, to his predecessor in office, to the case now being brought before him, and to the country as to qualify his statement by adding that grand jurors were only selected, summoned and impanneled as they are now by his order, while there was no Territorial statute in relation to the subject; but that since the passage of the statute they have been selected, summoned and impanneled in accordance with its provisions, except during the last two years. If he make this correction, it will be in keeping with the frank manner in which he avows in his opinion of yesterday the religio-politico-judicial character of his business in Utah.

In that opinion he claims to be here not simply as a judicial officer of the government, but more in the character of a crusader against the "Mormons." It is not Brigham Young, it is not adultery, it is not lewdness, it is not lascivious cohabitation, it is not bigamy, it is not polygamy particularly that the judge wars against—all these things exist, more or less, throughout the Union, and create no special interest. As it appears to us, the raising of any of these questions in Court by the Utah Federal Judiciary is only as the ostensible cases to be proceeded against. The real case, says the Judge, is Federal Authority versus Polygamic Theocracy; that is, the U. S. Government versus "Mormonism."

Now let the country distinctly understand that the "Mormons" have raised no such controversy. It is of Judge McKean's own raising. The "Mormons" are altogether on the defensive. He imagines a grave national case, and then proceeds to tug it through his court. The Latter-day Saints have no controversy with the Government, they will have none whatever, unless unavoidably and against their will forced into it, and then they will seek to get clear of it in the most honorable and commendable manner possible.

Meantime we rejoice greatly and thank his honor, Judge McKean, for so plainly and frankly defining his position. It is certainly a very curious one for a sober and learned judge to assume, but that is his business. We shall see what the public at large throughout the Union think about this "new departure" of the Federal judiciary of Utah. We knew the real position of the Judge long before he openly declared it, but many other people did not.

THE MASS MEETING.

A large concourse of people assembled in front of the Salt Lake House on Saturday night, in response to the call of the Chicago Relief Fund Committee.

The meeting was called to order by John T. Caine, Esq., and Major C. H. Hempstead was, by acclamation, elected chairman.

THE CHAIRMAN said the people had assembled in mass meeting for no ordinary purpose. During the course of his life he had been called upon to preside over political conventions and other great gatherings, but had never filled with so much pride any position as he did the one then assigned him. They had come together that the great city of Salt Lake might express, with one united voice, their heartfelt sympathy with the sufferers by the great calamity that had fallen upon the queen city of the West—the pride of the entire nation. A great city of spacious streets, magnificent mansions, huge granaries, the wonder and admiration of the world, had been, in a few short hours, prostrated in ashes, hurried to ruins. But it was not the demolition of fine buildings, &c., that was so much to be deplored, for the indomitable American pluck and enterprise which made Chicago what it was, could rebuild it in even more than its former splendor; but the condition of the hundreds and thousands of helpless men, women and children, huddled here and there on the bleak prairie, with the piercing blasts of winter coming on. The city could be rebuilt, but who could restore the happy homes that had been broken up? These demanded our sympathies not only in feeling and words, but in dollars, which alone could provide a remedy.

No bickerings nor clashings entered into this movement. Men and women of every shade of opinion united in a manifestation of the higher and nobler feelings of humanity, for at the grave and in a common affliction all differences sank.

The chairman continued, in eloquent style, for some time, making an earnest and pathetic appeal in behalf of the distressed people of Chicago, and wound up with an exhortation to all not to let the east be ahead of the mountains of the great north west in liberality.

On motion, it was resolved that Anthony Godbe and Theodore McKean, Esqrs., be the secretaries of the meeting and receive contributions to the relief fund on the spot.

MR. ALEXANDER MAJORS being called for, responded in a short but pithy address. He alluded to the fact that the people of this region were in a position to feel for fellow creatures in trouble, for many of them had passed through scenes of real trial and suffering. He said contributions should be handed in from a dime to a thousand dollars, according to the circumstances of the donors.

PROFESSOR SILLIMAN, being introduced to the meeting, delivered a few well chosen remarks suitable to the occasion. Chicago had arisen rapidly like a flower in the spring and had sunk as suddenly, like a flower in the fall. It was the privilege of an American citizen to feel at home on every part of the continent. He felt so in this great city, built up in the heart of the desert, and would join his mite with her people, in aid of the sufferers by the Chicago calamity.

EX-GOVERNOR FULLER was the next speaker. He dwelt upon the magnitude of the fire, by which about two-thirds of the great city of Chicago had been laid in ashes, and made an eloquent appeal to the sympathies and pockets of the people for aid to the helpless victims of the dire occurrence.

GOVERNOR WOODS, in answer to frequent calls, responded in a short but very pointed and appropriate address. He spoke of the great cry that had been sounded throughout this vast republic, and even across the deep to distant nations for help to the sufferers by one of the greatest of the world's calamities, and of the noble manner in which the cry had been responded to. America could proudly boast of the readiness of her citizens to succor the distressed. It was not a time for words, but for actions. Many thousands of men, women and children had, by a great catastrophe, been brought to the common level of the most helpless poverty and destitution. The knowledge of this fact precluded the necessity of much speaking. All should do their duty, that another star might be added to the bright flag of Utah's liberality.

MRS. STOWE, of San Jose, Cal., being introduced to the assemblage, made an excellent speech, which she delivered with considerable pathos.

A. S. GOULD, Esq., spoke of the inexpressible sufferings experienced by delicate women and children in being made homeless, subject to exposure and all the sufferings that tongue or pen could paint, by the late overwhelming catastrophe. His life had been spent in the west and he knew that true charity existed in that region, and what had already been done by the City of Salt Lake was to her glory for ever.

HON. S. F. NUCKOLLS, formerly delegate to Congress from Wyoming Territory, was called for and stepped forward. At the conclusion of his remarks, which were sensible and to the point, he said that he had already contributed what he thought his circumstances justified, but if Salt Lake City would make up her contribution to $20,000, he would give an additional $500. This proposition was received with loud cheers.

J. F. WALKER, and R. H. ROBERTSON Esqrs., were the last speakers. The former made a similar proposition to that of Mr. Nuckolls, which was also received with enthusiasm.

Several times during the progress of the meeting, vociferous calls were made for Hon. Thomas Fitch. That gentleman, however, on account of indisposition, from a cold, did not appear.

The Tenth Ward brass band, which enlivened the proceedings with excellent music, received a vote of thanks, and the assemblage dismissed.