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LAWLESS SOLDIERS AND CIVIL AUTHORITY.

OUR readers are aware that there was recently a scrimmage between ten riotous soldiers from Fort Douglas and three policemen who attempted to arrest them; that there was some pretty severe fighting, that two of the soldiers were arrested after being badly beaten, while the others escaped some of them bearing plain marks of the conflict; also that the arrested soldiers have been turned over, without punishment, to the military authorities. But the causes that led to the action by the civil authorities in relation to disorderly soldiers, and the course pursued by the military authorities in this matter, are not generally understood and therefore require some explanation.

Among civilized nations the principle is almost universally acknowledged, that, in time of peace at least, the military are subject to the civil powers. Soldiers who break the laws are liable to civil punishment. If a soldier commits murder, or highway robbery, or burglary, or any other offense against the life or property of a citizen, he should, of right, be amenable to the laws which are made for the protection of citizens. If the offense is committed in time of war, the soldier accused of the crime may consistently be retained by his commanding officer for military instead of civil trial and punishment, on the ground that his services are needed and that charges against troops in active service must not deprive the country of any of its defenders, who are subject to military rules and should be tried by court martial and, if convicted, punished according to the Articles of War. And these provide that the punishment "shall not be less than the punishment provided for the like offense, by the laws of the State, Territory or district in which such offense may have been committed."

In time of peace, however, there is no reason why the soldier who breaks the civil law should not be amenable to the civil law. And this, as we understand it, is the principle sustained in the laws of the United States relating to the military. The Fifty-Ninth Article of War provides:

"When any officer or soldier is accused of a capital crime, or of any offense against the person or property of any citizen of any of the United States, which is punishable by the laws of the land, the commanding officer, and the officers of the regiment, troop, battery, company or detachment to which the person so accused belongs, are required, except in time of war, upon application duly made by or in behalf of the party injured, to use their utmost endeavors to deliver him over to the civil magistrate, and to aid the officers of justice in apprehending and securing him, in order to bring him to trial. If, upon such application, any officer refuses or willfully neglects, except in time of war, to deliver over such accused person to the civil magistrates, or to aid the officers of justice in apprehending him, he shall be dismissed from the service."

This rule prevailed in this city up to the year 1883, when a conflict was brought about between the civil and military authorities, by similar influences to those now exerted for the same end. Soldiers would come down into the city and commit depredations, and, when the police attempted to discharge their duty would unite to maltreat and resist the officers, so as to escape arrest and manifest their hatred of the civil authorities. It became necessary to meet violence with violence, and some of the "boys in blue" were hurt in fights with the police. A soldier was arrested and the commanding officer was induced to sue out a writ of *habeas corpus*. The soldier was brought before the Supreme Court of the Territory, and that court construed the phrase "the laws of the land" in the above Article of War, not to include municipal ordinances; it was defined as meaning the laws of Congress, and of a State or Territory, an ordinance of a city not being in the same category. The Court further ruled that if a soldier was held in confinement by the city authorities, if it became necessary to effect his release, his commanding officer would be justified in using force.

After that ruling, it was thought prudent to establish a provost guard in the city, and whenever soldiers became lawless to turn them over to the military authorities instead of trying them by the civil law. Latterly, how-

ever, the police have not been interfered with by the commanding officer at Fort Douglas in arresting and punishing disorderly soldiers, under the ordinances of the city. But in the case of Quillivan and Sheridan, the two soldiers beaten and arrested by the police, although the charges against them were fully sustained by the evidence of a number of most respectable citizens whose character stands unimpeached, the question of jurisdiction was sprung by Mr. Lomax their attorney, the ruling of the Supreme Court being cited. Mr. F. S. Richards, the City Attorney, objected that the defendants could not thus take advantage of that ruling and defy the laws, and only the military authorities could demand the release of the prisoners that they might be turned over to their superior officers for trial and punishment. The following communication was then received:

FORT DOUGLAS, UTAH,
August 4, 1884.

To the Justice of the Police Court, Salt Lake City, Utah:

SIR—I have the honor to request that the case of Salt Lake City vs. Sergeant Quillivan and Private Sheridan, of this command, be abandoned and their bondsmen released from further responsibility for their appearance before your court.

In this connection I beg leave to say that I desire to co-operate with the police force of Salt Lake, so far as to secure the arrest and restraint of enlisted men of this command, but inasmuch as the responsibility for their punishment for offenses against the city ordinances rests upon me, I must request that you notify me of the arrest of any members of this command, with names of witnesses, so as to enable me to proceed against them according to law.

Very respectfully,

M. McD. McCook,

Brevet Maj.-Gen. U. S. A.,

Commanding.

Mr. Richards moved for the discharge of the prisoners, as under the ruling of the Supreme Court referred to the military authorities had jurisdiction when they demanded the persons of military offenders. The prisoners were then given up to the Fort Douglas authorities, and will have to be tried by military rules. The Fifty-Fourth Article of War provides:

"Every officer commanding in quarters, garrison, or on the march, shall keep good order, and, to the utmost of his power, redress all abuses or disorders which may be committed by any officer or soldier under his command; and if, upon complaint made to him, of officers or soldiers beating or otherwise ill-treating any person, disturbing fairs or markets or committing any kind of riot, to the disquieting of the citizens of the United States, he refuses or omits to see justice done to the offender, and reparation made to the party injured, so far as part of the offender's pay shall go toward such reparation, he shall be dismissed from the service, or otherwise punished, as a court martial may direct."

The matter now stands thus: The police can arrest and restrain disorderly soldiers, but for their trial and punishment they must be turned over to the military authorities, who will proceed to the investigation of the charges preferred against them just as though this was a time of war instead of a period of peace. It is not worth while just now, perhaps, to comment upon the technical word-straining that excludes municipal ordinances from "the laws of the land" in the meaning of the Articles of War, but it does seem a big stretch of language against the peace and good order of the city.

It is claimed that the police maltreated the captured soldiers after arrest. That is also denied. But the rights of prisoners ought to be respected, whether they be soldiers or citizens. And at the same time the officers must be sustained in the discharge of their onerous duties. An officer has the right to use necessary force in the arrest and retention of an offender against the peace and dignity of the city, but not to use unnecessary force at any time; and when the prisoner is safe in custody the officer must not only refrain from force but protect the prisoner from violence.

The police must be careful to keep within the law. They are exposed to much violence, to many taunts and great abuse. But it is expected that they will not break over the bounds of law, no matter what may be the provocation. At the same time no sensible person who has any regard for right will uphold the blackguard, the bully and the brute in assaults upon the preservers of the peace, nor expect those officers to submit tamely to the violence of the lawless. An officer who is to make an arrest is expected to accomplish his work, and if resistance is offered he is not required to retire with a graceful bow and let his prisoner decamp, but to bring him in at all hazards.

Those who encourage the lawless element in this city to resist the police and are doing all they can to break down police authority, ought to be left to the effects of their vile teachings—a prey to the violent and the victims of rowdism and riot. They might then learn better sense and be glad of a vigilant and determined constabulary. We will not sustain any officer in abuse of a prisoner or excess of duty in any particular, but we hope that all law-abiding citizens will oppose the efforts, made by a few malicious mar-

plots, to justify the plug-uglies and bruisers in maltreating the police and to bring about ill-feeling between the civic and military authorities.

FRED. HOPT AS AN ANTI-"MORMON."

FRED. HOPT, the thrice convicted murderer of John F. Turner, is resorting to a dodge that might either be considered in the light of an attempt to appear insane, or to pose as an innocent martyr to "Mormon malignancy." This harmless dove has written a lengthy, incoherent, rambling letter to the Marshall, Ills., *Messenger*. According to it he considers the "Mormons" the bane of his life, the cause of all his troubles, which have reduced him to the meagre proportions of a human skeleton. He denounces them for sending over the wires a dispatch to the effect that he had suffered the extreme penalty of the law, thus conveying a falsehood to his sister who was so overwhelmed with grief at the news that her reason tottered for a time. It is not displeasing to the "Mormons"—who had nothing whatever to do with the sending of the dispatch—to be berated by Hopt, for the animosity of such a murderous monster is preferable to his good will.

Commenting upon the dispatch he gets off this vaporous nonsense:

However, this statement will prove an insidious falsehood; it will also prove that I was averted from sharing the doom so joyfully entertained and cherished in the cold-blooded hearts of my Mormon prosecutors, who for the last four years have exhausted every legal privilege of law and every possible means disrespectful of true justice, (since justice exists in a name), have been employed to secure my conviction and expiate my life, as an atonement for my Mormon apathy. The enmity is not alone concentrated upon me, but their vengeance is extended even to the virgin innocence of my loyal and noble sister. About fifteen months ago, these Mormon demons nearly succeeded to crush her prostrate upon the ground, and who up to this day, bitterly suffers from the terrible shock she thus received, through the bloody agency of the relentless Mormon fiends.

He pays this compliment to the judges:

They allow themselves to be influenced by means of Mormon gold, virulence and venomous corruption. The whole course of my trials exhibit these immoral symptoms. They defiled the dignity, integrity and veracity of their office by hearkening unto the Mormon rabble; they inveterately mocked, ridiculed and masqueraded the inviolability of the sacred law of justice by failing to execute the law and to staunchly undauntingly adhere to the intrepid principles of its serenity. I can substantiate all these evasions and challenge investigation that these judges were inveigled to desert their ordained principles and to abide on the side of their Mormon seducers.

This glowing tribute he tenders to certain Salt Lake attorneys:

I desire to append the following gentlemen, all honorable members of the Salt Lake bar, who can testify to the fragility of the imperious law by the inimical judges of Utah: Ben Sheeks, Judge McBride, J. L. Rawlins, Judge Kirkpatrick, A. Young and Harkness. All these leading attorneys made a bold and vigorous onslaught against the illegitimate and lax proceedings of the district and territorial supreme court. It is greatly owing to the exercise and the glorious prerogatives that the above named attorneys manifested in my hour of trial that obviated the explosion of a fierce and exasperated violence on the part of an excited and infuriated clan.

The "Mormon" Church organ took the solid ground that Hopt should be accorded all the privileges clearly allowed him under the law, and deprecated in unqualified terms any disposition to resort to mob violence against the red-handed murderer who had so long gone unwhipped of justice. The same law-sustaining sentiments were expressed from the stands in public places, but here is how he raves:

"It must be emphatically said, and it is palpably true, that the greatest part of these absolutely disinterested but aberrated Mormons, at least as far as it concerns my case, have been instigated to commit the formidable and aggressive deeds of violence through the propagations of the contemptible, rank and vile invectives upon the public pulpit at their respective tabernacles throughout Utah. Their hatred and prejudices of me are not relegated merely to the supposed offense for which they endeavored to convict me, but their bias, their vehement desires and firm determination to wreck their retaliations, is principally based upon a presumed wrong I have done them."

He holds up to public gaze the "canibalistic and tenacious heroism" of his attorneys after this fashion:

For my narrow escape upon the gallows I am chiefly indebted to the dauntless, extraordinary and strenuous efforts of my brilliant and able attorneys, Messrs. Van Horn and Snider, of Salt Lake City. No tribute of the loftiest of panegyrics and the most exalted sentiment of kindly praise and attitude can adequately express and portray the canibalistic and tenacious

heroism that these noble attorneys have exerted in my unfortunate behalf. When, through horror, recoiling and culpable action of the Mormon demons, I was about to hurry down hoary pits of eternal perdition, when the mills of Mormon persecution were about to grind my suffering and emaciated frame, these two benign and gallant attorneys stood by me fearlessly and in spite of the menacing danger that they themselves incurred in consequence of their unflinching adhesion to the divine pedestal of supreme justice.

He speaks thus of the testimonial initiated by Col. Geo. A. Lowe, and tendered to Sheriff Turner as an evidence of the respect and sympathy of the donors for the father of Hopt's victim:

But no sooner than my trial culminated, last month and my prosecutor and his friends found themselves disappointed because of my fortune to evade the retribution they so pruriently, than the public express their sympathy by donating my bereaved prosecutor the sum of \$1,000, the same being a heartfelt testimonial for his murderous action.

Of course the absurd effusion tapers off with an appeal to his "Gentile" Christian friends:

"It is upon the substratum of these wrongs that I implore those whom chance propitiates to read this statement and with whom my calamity and suffering have elicited sympathy to aid me in restoring my innocent conscience. My statements are just and good, and ensue from a heart and soul made sore by long born suffering and affliction. I state that despite my heart wrung pain I have endured, my affections towards the pure and my admiration of everything that is noble and refined are as fervent as in the days of serene childhood. My convictions and deliberations are guided not by the advice of Mormon devils, but by Christian Gentiles. Feeling strong in the approbation and support of Christian friends, I invoke the exercise of those named to assist me in the renewed task that I am determined to accomplish withal; to avert the threatening vengeance the Mormons intend to wreak upon me—to restore to me the privilege of a fair and impartial trial and the enjoyment of equitable justice—which means the assertions of my innocence and the obliteration of the subtlety my persecutors have seen fit to bespatter me."

The bitter and infamous anti-"Mormon" sheet published in this city gives space to the fulminations of Hopt, one of the most brutal murderers of modern times, the reason assigned for its publication being that the communication is a "literary curiosity." But not one word is given to indicate that the letter is not only a hotbed of horribly constructed sentences, but a tissue of falsehood from beginning to end, as the entire public in this section of the country are aware. The letter might, however, convey, on the outside, a wrong impression in relation to the "Mormon" community, and the sheet which republished it would not on any account express a word that would counteract a probable effect of that character.

It is doubtless pardonable in us to give some scraps of the peculiar communication, not only on the ground of the curious character of the literature, but also to show the correctness of the position sometimes taken and frequently proved, that the most depraved wretches on earth are arrayed in the ranks of the anti-"Mormons."

It is only fair to say in this connection that there is no sympathy discoverable in any class or even individual in the community for Hopt. The murder of which he was convicted three times by mixed juries of non-"Mormons" and "Mormons" was of such an atrocious and cold blooded character that he is viewed with detestation by everybody cognizant of the fearful crime of which he was undoubtedly guilty.

Were it not that their is a vein of method in Hopt's madness, it would seem as if he was working up an insanity subterfuge at this late stage of the case.

THE BRIGHAM YOUNG ACADEMY.

We have received from Prof. Maeser a copy of the circular of the Brigham Young Academy for the coming academic year—the ninth of its existence.

The regular departments are: Preparatory, Intermediate, Academic, Collegiate, Normal, Music, Work. Besides these there are special organizations of great practical value, among which are the Theological, Domestic, and Monitorial.

The institution has a strong and efficient faculty: Karl G. Maeser (Principal), Benjamin Cluff, Jr., Jas. Talmage, Nels L. Nelson, Joseph B. Keeler, William Done, Ferdinand Lara and Mrs. Jennie Tanner.

The public are familiar with our views in relation to the Brigham Young Academy. It is a most useful and praiseworthy institution, with a great future before it. The recent fiery experience it passed through by the burning of the academy building, was only an apparent restriction of its operations. Extensive preparations are in progress in the Z. C. M. I. building of Provo to

enable it to open the ensuing year of 1884-5 with increased instead of diminished facilities. The burning of the building formerly occupied has aroused the energies of those under whose watchcare the Academy is conducted, and they are proving equal to the occasion. The first term of the ensuing year will open on September 1st, under encouragingly favorable auspices.

RULING OF THE UTAH COMMISSIONERS.

COMMISSIONER Paddock having arrived, he has signed the opinion delivered by Commissioners Ramsey and Carlton, which now comes as a ruling and will govern in the election on Monday so far as counting the ballots for County officers is concerned. The presence on the ticket of names for Territorial Offices will not vitiate the ticket, even if it be the correct position that those offices are not elective. Voters take notice and do your duty.

The Utah Commission adopted the following Order yesterday on motion of Senator Paddock:

Resolved, That in the opinion of this commission, there is nothing in the laws of Utah authorizing the rejection of ballots by the judges, or the refusal of canvassers to count the same merely because there may be printed thereon the names of candidates for offices which under the law are not to be filled, in addition to those which may be lawfully elected; and there is nothing in the rules heretofore prescribed for the elections in the year 1884 in conflict with this view.

In regard to the question whether Territorial officers are to be elected by the people or appointed by the Governor with the consent of the Legislative Council, we adhere to the opinion promulgated by the commission on the 13th of June, 1883, that such officers are appointed only and the judges of election are not required to canvass or return the votes for such offices.

SURE TO "GO THE ROUNDS."

"A Mormon paper in Utah predic the spread of cholera in this country as a divine retribution for the reappointment of Governor Murray over that Territory."

THE above appears in the Philadelphia *News*, New York *Tribune*, and other eastern papers, in several of them with comments. The usual journalistic method of "pitching into the Mormons"—a very popular pulp and press recreation, is to assume something as "Mormon" doctrine, opinion or practice which the "Mormons" no more believe than their opponents, then proceed to show its error, wickedness or absurdity, and finally to assume that the whole "Mormon" argument is thus disposed of to the discomfiture of "Mormonism" and the victory of the writer or preacher.

We will say for the benefit of such journals as wish to be accurate, and are not desirous of exerting themselves in attacking a phantom, that no "Mormon" paper in Utah has made any such prediction on any such ground as that named in the Philadelphia paragraph. Further, the reappointment of the official referred to is really a matter of little moment to any one but the individual himself and a few hangers on. Whether the Deity pays any attention to so small an event would be open to doubt, but for the authoritative statement that "not even a sparrow falls to the ground without His permission."

However, we expect to see the item "go the rounds," simply because it is in relation to something about the "Mormons" and because it is utterly untrue.

TEA DRINKERS BEWARE.

ADULTERATED teas have been imported so largely into this country that, lately, determined efforts have been made at the port of New York to enforce the law against their introduction. It is stated that during the past month no less than six thousand packages of impure and adulterated teas have been seized there by the custom house officers.

This is creditable to the officers and shows the extent of this shameful traffic. It ought to be also a caution to tea drinkers, but the great unthinking public will swallow the most injurious things, if dignified with the name of some popular beverage.

The good work in New York will, for a time at least, improve the eastern tea market, but how about the western, from which the great bulk of packet tea at least is obtained for the consumption of that herb in this Territory?

The rain it raineth every day.

A new Democratic paper, the Philadelphia *Post*, made its appearance recently.

Owing to the drought, water has been sold in Key West, Fla., at five cents a bucket.

A piece of steel is a good deal like a man; when you get it red hot it loses its temper.