

assessed against Richard Cook for contempt on the 19th day of June last was remitted. The proposed motion to set aside the verdict was not filed.

The Court then proceeded to sentence the prisoners in accordance with the finding of the jury.

Mr. Schultz prayed the Court to order the delivery of certain property taken at South Weber by Deputy Marshal Burton, to the proper owners, whereupon the Court appointed Messrs. Gibbs and McAllister, Commissioners, to take evidence and deliver up property to parties not indicted, and convicted at this term of Court.

Ralph Ramsey was admitted a citizen of the United States.

Court took an adjournment to meet on its own motion.

### THIRD DISTRICT FEDERAL COURT.

The District Court, in and for the Third Judicial District, for the adjudication of causes arising under the laws of the United States, commenced its annual session on Monday, March 30th, at the State House in this city, pursuant to appointment.

The Court was called at 11 o'clock a.m.

Present, Hon. J. F. Kinney, Judge; Isaac L. Gibbs, U. S. Marshal; Patrick Lynch, Clerk; R. T. Burton, Crier; C. H. Howard, J. D. Ross and William Lynch, Bailiffs; Aurelius Miner, Esq., Prosecuting Attorney, and several other members of the Bar.

A venire previously issued for a Grand Jury was returned by the Marshal with the following panel annexed, all of whom answered to their names on being called, viz.:

George A. Smith, John D. T. McAllister, Franklin D. Richards, Isaac Brockbank, Jr., Gustavus Williams, Andrew Cunningham, Philip Margetts, Elias Smith, Claudius V. Spencer, John B. Kelly, Samuel F. Atwood, Horace Gibbs, Charles J. Thomas, John Rowberry, George Bryan, William S. Muir, Leonard G. Rice, Wells Smith, Jam's Bond, Lewis A. West, Alfred Cordon, George W. Ward and John W. Myers—about one half of whom are citizens of Great Salt Lake County, the others citizens of Tooele, Davis, Morgan, Weber, Box Elder and Summit Counties.

George A. Smith was appointed foreman, and whom the Judge administered the following oath:

You do solemnly swear that you will support the constitution of the United States of America; that you have not, without duress and constraint, taken up arms, or joined any insurrection or rebellion against the United States; that you have not adhered to any insurrection or rebellion against the United States, giving it aid and comfort; that you have not, directly or indirectly, given any assistance in money or any other thing, to any person or persons whom you knew, or had good ground to believe, had joined, or was about to join, said insurrection or rebellion, or had resisted, or was about to resist, with force of arms, the execution of the laws of the United States; and that you have not counseled or advised any person or persons to join any rebellion against, or to resist with force of arms the laws of the United States, and that you, as Foreman of this Grand Inquest, shall diligently enquire and true presentment make of all such matters and things as shall be given you in charge; the counsel of the people, of your fellows and your own, you shall keep secret; you shall present no one from envy, hatred or malice, nor leave any one unpresented for fear, favor, affection, reward or the hope of reward; but you shall present all things truly as they come to your knowledge, according to the best of your understanding, so help you God.

After which the other jurors took the same oath, administered by the Clerk. The Court then charged the Jury as follows:

Gentlemen of the Grand Jury, it is customary in all courts, on empanelling a Grand Jury, to deliver to them a charge in relation to the duties which devolve upon them. In the observance of this practice, it becomes my duty now, as you are empanelled as a Grand Jury for the Third Judicial District, to deliver to you a charge, or to give you instruction in relation to the duties of your office.

You have been selected as a Grand Jury for the Third Judicial District in the Territory of Utah, particularly with reference to your intelligence and your knowledge of the crimes and state of the morals of the inhabitants in that part of the district in which you live. You are selected as a Grand Jury for and on behalf of the United States; differing in this respect from Territorial Grand Jurors, for you can look into nothing except it involves a violation of the public statutes of the United States.

By a wise provision of the Constitution of the United States, no person can be brought to trial for the commission of any crime, except he be first presented by an indictment found by the Grand Jury of his district, and by a similar provision no person can be convicted except by a trial before a Petit Jury. The humanity of the law has guarded the rights of the citizens in this respect, so that a person accused of crime must pass the ordeal of a Grand Jury; then he has the privilege of

making his defence, and if convicted at all he must receive the verdict of the Petit Jury.

Gentlemen, as a Grand Jury you will enquire into the violation of any of the laws of the United States in this District, for it is only in this way, by the presentment of a Grand Jury, that a person can be brought before this court for trial.

You will confine your enquiries to the violation of the laws of the United States. If any crimes have been committed in any of the various localities where you reside, of which you are supposed to be cognizant, it will be your duty to present the parties therein suspected for trial.

In your investigations it is not expected that any testimony will be brought before you as is the case between the criminal and the country when up in trial before a court, or in other words, a party accused before you will not be permitted to traverse any accusation brought against him before your body. You have sworn, gentlemen, that you will diligently inquire into and true presentments make of all such matters as may be brought under your notice. You have taken upon yourselves a very responsible and solemn oath. You will inquire with diligence; you will search after crime; you will not do so hastily, but you will inquire and search after crime as after lost treasure, as with a lighted candle, for the purpose of ferreting out crime, and of bringing the criminal to that punishment which he deserves. In no other way can the peace of the country be preserved; in no other way can the laws be magnified; laws be magnified; in no other way can suitable example be set to those disposed to violate the law; in no other way can we protect our own liberty, our own property and our own lives, except by meting out to the offender that which he deserves for the violation of the law.

You have sworn that you would diligently inquire into the things given you in charge, and hence it becomes the duty of the Court to set before you certain crimes that have transpired since I came into the Territory in November last. But you will not confine your inquiries to those things given you in charge, but you will extend them farther, for if you know anything more than what is given you in charge, it is your duty to present such cases, although such violation of the law may not have come under the notice of the court; and as you are selected from the body of the district it is supposed that you know all that is transpiring in the region where you live, and that you will send for such witnesses as will be necessary for the presentation to the court of those who may be indicted, so far as the presentment of the man and the nature of the offence are concerned.

You are the public accusers on behalf of the government; you have sworn that the counsels of the people, your own, and your fellows you will keep secret. This it will be well for you to bear in mind that, pending an investigation before your body, the fact must not be made known publicly. If this were to be allowed, it would give the criminal a chance to escape that retributive justice which the law so amply provides. You have sworn not to present any person from envy or malice, nor to leave any one unpresented for favor or hope of reward. Gentlemen, if any come before you accused of crime, be careful that these feelings do not affect you in your determination for the vindication of the law, but present such persons as though they were strangers; do it destitute of any feeling on your part; do not let such feelings influence your judgment. You are to know no one, for if there is any place where persons should divest themselves of fear and favor, that place is in the Grand Jury room, and you must distinctly understand that it is your duty to present every one truly and every thing as it should come to your knowledge, without fear or favor. So much, gentlemen, I consider it necessary to say, in relation to the oath which you have taken. Your jurisdiction extends only to the Third Judicial District; to the county line of Salt Lake County on the south, to Nevada Territory on the west, and the entire jurisdiction of this Territory upon the north, and also upon the east, and within these limits are you to enquire after the offenders against the law.

Since the last term of the court, certain matters have fallen under my observation. In the first place, gentlemen, I caused a warrant to be issued upon affidavit made before me, against Thomas C. Armstrong, for buying a pistol, alleged to be the property of the United States. The proof was such that I required him to enter into bonds for his appearance at this term of court. The purchasing of arms belonging to the United States is contrary to the Statutes, when purchased of a soldier in the service of the United States. If you shall find that Mr. Armstrong purchased this pistol of this soldier, knowing him to be a soldier in the service of the United States, it will be your duty to present that man for trial. I also caused writs to be issued against two Indians whose names are (I think) Curly and Wampano, for stealing property belonging to the citizens of this Territory, horses and the like, and being satisfied that the crime was committed, and said Indians not being able to give bail, they were committed and are now in custody in the Penitentiary. If it shall appear that they did deprade upon the citizens of this Territory, it will be your duty to present them for trial.

All the Indians are under the laws of the Federal Government, and they are as much amenable to the laws as the enlightened citizens. The Congress have passed certain laws in relation to the Indians, placing them under the jurisdiction of the Federal Courts

and making them, like the white man, amenable to the laws of the United States.

Affidavit was made before me against William Burton and Alonzo Gabbott for stealing mules. If these mules had been taken from the citizens, then these men would have been amenable to the laws of the Territory, but as this property was taken from a military reservation, the case comes under the jurisdiction of the Federal Courts. I also held them to bail. I believe that they also are now in jail awaiting your action upon that case. If there shall be sufficient evidence brought before you to satisfy you of the probability of their guilt, it will be your duty to present them to the court for trial. And, gentlemen, upon this question of evidence I will say that you need not be satisfied beyond doubt of the guilt of the party accused, but if there is *prima facie* evidence that the crime has been committed, it is your duty to present them for trial.

Afterwards affidavit was made against one Ray, for stealing these same mules from the United States, and there is no doubt from the testimony that there was an understanding between these parties,—one to steal, another to secrete and the other to sell, and being satisfied that this party had been guilty of complicity in the affair, he was required to find sureties and to enter into recognizance for his appearance in this court. He is now on bail and his case will be presented for examination, and if you are satisfied that the testimony is sufficient, of which there is little doubt, it will be your duty to present him for trial.

I find upon my table papers in the case of Charles Davey, charged with buying two sabres and a belt from a soldier in the service of the United States. This case did not fall under my own observation, although I believe I am the judge of this district, and endeavor to attend to my judicial duties. But it does appear from the papers, that another—a brother judge, who has been assigned to another district—has taken this case under his special care, issued the papers, and held the man to bail to appear at this court. Perhaps it might be considered by some that this was a little discourteous to the judge of this district; but, gentlemen, I find that it becomes my duty to give you this case in charge. And if he had not been arrested, and the facts had come before your notice, still it would have been your duty to present this case for trial. The case is certainly a little embarrassing, as there is no record, except the papers. Still, it will be your duty to present him for trial.

Gentlemen, I desire to call your attention to another matter. There is a statute which I will call your attention to as follows, in relation to persons who shall put in circulation any note or paper to circulate as money in less denomination than one dollar. If you find that any persons have violated this law, by issuing paper money of a less denomination than one dollar, it will be your duty to present such a one for trial.

Gentlemen, I desire to call your attention to another statute of the United States, which was passed on the first of July, 1862, entitled "An act to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly in the Territory of Utah."

By the provisions of this act, every person having a husband or wife living and shall marry another, is deemed guilty of bigamy. This is ordinarily called the polygamy act and, while it applies to all the Territories of the United States, it was designed undoubtedly for the exclusive benefit of Utah. It is a public statute upon the records of the Government, and Congress has seen fit to pass this law for the purpose of getting at the cases of those who have a plurality of wives.

It is said that this statute is unconstitutional, and that polygamy is part of your religious faith, and that in the carrying out of this faith, the people of this Territory have a right in their religious faith and worship to resort to what is called the plurality system. It is not proper for me in giving you this charge to state what my opinion would be in regard to this law, provided the question were made before me, but I would here say that all laws are constitutional until decided by a court to be unconstitutional, and when so decided they are as waste paper.

Gentlemen, under this law and upon an affidavit made before me upon the part of the United States, I caused a warrant to issue against Brigham Young. This warrant was served without difficulty or a military posse contrary to the expectations and wishes of some; it was responded to, and the defendant appeared before me, and being satisfied that there was sufficient testimony, I held him to bail for his appearance at this term of court. Gentlemen, I give you this law and this case in charge without further comment, and if you shall find that this statute has been violated, if the evidence before you shall be such as to warrant you in the belief that such has been done, it will be your duty to present this case, or any other that may come before you for notice for trial. And if at question in reference to the constitutionality of the law is then made, that question can then be decided. You can find indictments for violation of this law as in the other cases that I have given you in charge, no matter whether the person has been previously arrested or not.

Gentlemen, your duties are responsible ones. A good deal of business on the part of the United States has arisen. You are a part of the Court; without your aid and action the Court can do nothing towards bringing offenders to justice. I trust you feel the weight

of that responsibility which rests upon you, and that you are determined to do your duties fearlessly and honestly in all cases which may be presented for your consideration.

Gentlemen of the Grand Jury, it is not necessary for me to continue my remarks; you understand your duties, and I doubt not you will discharge them to your own satisfaction and to the satisfaction of the court.

I will say further, that you will have the advice of Mr. Miner, the United States District Attorney, and when indictments are desired, he will prepare them.

You will sit upon your own adjournments, and expedite the business which may come before you with all reasonable celerity.

The Jury retired in charge of bailiff Howard.

The venire for petit jurors was returned with the following list of names appended: Aaron F. Farr, Judson L. Stoddard, Nathaniel Leavitt, James M. Gallaher, James A. Thompson, John V. Long, Thomas Bullock, Thomas B. Broderick, John L. Blythe, Joseph Busby, Henry McEwan, Lucas Hoagland, Miljen Atwood, Jam's Fielding, Samuel L. Sprague, George D. Grant, William A. McMaster, William Calder, Elijah F. Sheets, Isaac Groo, George Nebeker, John Scott, Daniel M. Burbank and Robert J. Golding; all of whom were present and answered to their names. Judson L. Stoddard, for good and sufficient reasons, was excused by the Court, and Hiram B. Clemons was summoned to fill the panel.

The names of the witnesses which were under recognizance for their appearance were called.

William Bell was made a citizen of the United States, and the court adjourned till next day at 12 o'clock.

The court met on Tuesday, pursuant to adjournment. The record of Monday was read and signed, and then the court was adjourned till to-day at noon.

### A CONTEMPTIBLE DOCUMENT.

At a late hour last night, as we were going to press, the following anomalous document was placed in our hands, said to have been served upon the Warden of the Penitentiary about seven o'clock in the evening, and thereupon, for reasons not stated, the prisoners named therein, who were incarcerated in the Territorial prison on Saturday last, in accordance with the verdict of the jury and the order of the Court, were set at liberty. Comment being unnecessary, and time wanting, had it been required, to have given vent to our indignation at the flagrant outrage, further reference to the damnable interference with the administration of justice is deferred for the present and till our anger shall have abated. We publish word for word, letter for letter, and point for point:

### UTAH TERRITORY

#### EXECUTIVE DEPARTMENT

To all to whom these presents shall come greeting:

Whereas at the March term of the District Court for the Third Judicial District in said Territory A.D. 1863 The Honorable John F. Kinney Presiding, Peter Klemgard, Christen Nielsen, Gens Christensen, Kadrup Nielsen, Abraham Taylor, Andrew Lee, and Andrew M. Mason were convicted of murder in the second degree, and sentenced, each for a term of years, at hard labor in the Penitentiary:

Now know ye, that I Stephen S. Harding Governor of the Territory of Utah, divers good causes me thereto moving, by virtue of the power in me vested, have given, and granted, and by these presents do give and grant unto the said Peter Klemgard, Christen Nielsen, Gens Christensen, Kadrup Nielsen, Abraham Taylor, Andrew Lee, and Andrew M. Mason, and to each of them, full and perfect pardon for the offence, aforesaid, of which they stand convicted, and they are, and each of them is, hereby, for ever, exonerated, discharged, and absolved from the punishment imposed upon them, or either of them in pursuance of said conviction.

In testimony whereof I have hereunto set my hand, and caused the Great Seal of the Territory of Utah to be affixed at Great Salt City this 31st day of March A.D. 1863.

Ste. S. HARDING,  
Gov of Utah Territory.

By the Governor:

FRANK FULLER, Sec'y.

**THEATRE.**—The management announces that in consequence of numerous solicitations, the beautiful historic play "Virginia" will be presented this evening—Mr. T. A. Lyns representing "The Roman Father." The after-piece—"Marriage at any Price" which was received on Saturday evening with so much favor, will be repeated. There will no doubt be a large attendance to witness the playing of Mr. Lyns in that favorite character of Virginia.

We understand that the Merchant of Venice is in course of rehearsal, and will be put on the boards after Virginia.