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TRUTH AND LIBERTY.

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## FOR DELEGATE TO CONGRESS, JOHN F. KINNEY.

### FEDERAL COURTS AND JUDGES.

Before the crusade, it was reported throughout the length and breadth of the land that the records of the Federal courts in Utah had all been burned up and destroyed, which falsehood aided materially towards getting up the expedition. The facts were that the records of those courts were not very voluminous; none having been made by any of the judges worthy of note, with the exception of Judges Snow, Shafer, Kinney, Drummond and Stiles, all of which were found by Gov. Cumming on his arrival here, in a perfect state of preservation, and there were none wanting excepting the records of the scores of courts that were never held by the lazy, lying vagabonds, who came here with commissions in their pockets as Judges of the Supreme court for the Territory of Utah, but did not magnify the office to which they had been appointed; for they neither resided in the Districts to which they were severally assigned nor held the courts designated by the Legislature.

It would have been well for Eckles, Sinclair and Cradlebaugh, if they had desired to have presented their illegal and diabolical proceedings from becoming matters of history, authenticated by their own signatures, to have carried off the records of their doings as Judges or burned them up as was alleged to have been the fate of the records of their predecessors. Had they done so when they went away, it might, in process of time, have been somewhat difficult to have proven all their acts of malfeasance and misfeasance, while on the bench, or in chambers; but luckily a considerable portion of the records of their judicial acts have been preserved and will in time to come exhibit the ignorance, folly, corruption and wickedness of those unjust judges, to all who will take the trouble to peruse them, so far as their doings were recorded, but of many of their acts no record, so far as known, was ever made, as for instance their doings when assembled at the seat of government, in relation to fixing and appointing the times and places for holding courts, for United States business; Eckles' habeas corpus proceedings by which he released all the convicts in the penitentiary, and many other orders said to have been made by each of the trio, when not on the bench, which the Marshal and his deputies executed or attempted to execute. The record of the crusade Judges is not very complete, but there is enough of it to *show* to future generations the character of those infamous Federal representatives.

When Judge Eckles left the Territory, in the spring of 1860, he made some officer or other person at Fort Crittenden the custodian of the records of the First District Court, as was understood at the time, but whether these records included any thing more than the proceedings of the self constituted courts held in that District by him and Cradlebaugh we are not advised. He may have had the records of the courts held therein by Judges Kinney, Snow, Shafer and Drummond—the last of which was held by Drummond in the spring of 1856—in his possession and he may not. The records of the former courts, or a part of them, were in the custody of L. N. Scovil, Esq., of Provo, who acted as clerk of Cradlebaugh's court; but if we were ever informed we do not remember whether or not the military Judge, as Cradlebaugh was called, took all the records with him to Camp Floyd, when he marched thither with his forces—those furnished him by Gen. Johnston, to enable the court to carry out its designs—immediately on the adjournment of his notable tribunal. If he did they were probably handed over to Eckles, by Cradlebaugh, on his leaving for Carson, soon after, in which event all the records of the Federal Courts in that District were kept at that military post, and within the lines of the garrison till about the time of its evacuation in 1860, when they were, as reported, brought to this city, by the individual with whom they were deposited by Eckles, on his return to Indiana, after his ineffectual efforts to hang some of those represented by Drummond, and other men of like character, as worthy of death, for treason and murder, as alleged, but in truth because of their opposition to the corruptions of the age, and would not tolerate the introduction of the abominations of the wicked into the peaceful vales of Deseret.

After having been kept in this city awhile, the records were forwarded to the Indian Farm near Spanish Fork, and left there with some sub agent or employee, we know not how long. Search was made for the history of Eckles' proceedings in September following, by Marshal Dotson, who wished to use some part of the record in a suit then pending which had been brought against him by Brigham Young, sen., for the recovery of the value of the plates on which the bills for the Deseret Currency *Association* were struck, and which the unfortunate, unlucky ignoramus had carried off, at the time the forgery of the Government drafts by Wallace, Brewer, and their confederates was discovered, thinking thereby *to convict Ex Governor* Young of the crime which those villains had committed. Dotson wished to prove by the record that the plates were seized by the order of Eckles, thinking thereby to exculpate himself and get clear from paying the damages which had accrued to the owner by their unlawful seizure. The record was found, but not being in possession of a clerk, a deputy clerk or any person who might be compelled to produce it or make a certified transcript of any portion of it, Dotson was foiled in his efforts to bring to light the hidden thing which would have, of course, availed him nothing had it been produced in court, *and everything alleged had been found written* therein, which was not, as has since been ascertained, but he knew no better than to believe that what ever a Federal Judge said or did was law and that it was his duty, as Marshal, to do *everything they* required to be done either in court or out, and that, too, without process, and that he was not responsible for his acts *because he was an officer of the United States*, and, as such, should not be sued. After the records were thus hunted up by Dotson, nothing more was heard of them for a long time. They were, we believe, subsequently obtained by John McEwan, Esq., who was, by Judge Crosby, appointed Clerk of the Second District Court, but who from and where we are not advised. Mr. McEwan, as clerk of the Second District Court, has also in his possession, as we are informed, the records of Eckles' Courts, held at Fort Bridger. *How* he came by them we know not, for Green River County never constituted any part of that District, but the presumption is that Eckles carried them to Camp Floyd, *and when he left there, packed them up* with the other documentary evidences of his, and Cradlebaugh's villainy, and were afterwards taken to the Indian Farm, at Spanish Fork, from whence they subsequently, by some means, found their way into the clerk's office of the Second District Court.

It appears from the records of the Third District Court, that on the 18th of August, 1859, Attorney Wilson presented a Nolle to stay proceedings on certain indictments for alleged treason, said to have been found in Eckles' self constituted courts, held at Fort Bridger—one in December 1857, which he called the December Term of the First District Court, and the other in April, 1858, called by the said attorney the April Term of said Court, for Green River County, which indictments purported to be against citizens of Great Salt Lake County, and alleged by the said attorney to be then "legally within the jurisdiction of the District Court for the Third Judicial District for the Territory of Utah," which the Judge (Sinclair) permitted to be filed, when the court and the Attorney both knew or should have known that those courts were held without authority of law and were well aware that no such indictments were pending in the Third District Court, that no record of Eckles' proceedings had ever been deposited in the clerk's office of said Third District Court, and that judicially no such thing was known to that court. How Wilson ascertained that any such proceedings had been had by Eckles, was and is as yet unknown; but it is presumed that he had either been furnished by Eckles with a copy of those documents, or he had got them out of some newspaper printed in the States where they were extensively published and considered by many to be rare specimens of judicial knowledge and the embodiment of the most profound erudition, which could not fail to work wonders in the accomplishment of the object for which the crusade was instituted. The filing of the *nolle* was a legal farce intended unquestionably for effect abroad; but like all the other doings of those judges, the Attorney, Marshal and other officers of their courts, proved a failure, as all that they accomplished while in the Territory was to make a record of their acts establishing beyond contradiction their consummate ignorance and folly and their devotion to the cause they came to promote.

Cradlebaugh went to Carson early in the spring of 1859, where he remained till that part of Utah was made the Territory of Nevada, holding courts according to his will and pleasure, which seemed to be quite satisfactory *to the people who elected him their first* delegate to Congress, where he obtained leave to print a speech never delivered, to which was *appended* all the affidavits and other libelous documents he procured while here from horse thieves, murderers and others well known to be the offscum of the human race, who sought to obtain favor with the crusaders by uttering all the lies they could invent against those who were opposed to their wickedness, corruption and abominations. It was a rare document and remarkable for containing less truth than any other which the Government has been at the expense of publishing.

In the summer of 1860, and if we rightly remember, as early as June, and about the time that Judge Eckles arrived at his home in Indiana, he was superseded as Chief Justice of *Utah* by the *reappointment* of the Hon. John F. Kinney, to that office. The other two Judges were superseded by the *appointment* of Robert P. *Flenniken, of Pennsylvania*, and Henry R. Crosby, of Washington Territory, Oregon or California, both of whom arrived here in the course of the *summer, and Judge Kinney* soon after. Judge Flenniken considered himself the successor of Judge Cradlebaugh, and without waiting to be assigned by the Legislature, which did not meet till the second Monday in December following, after remaining in this city a few weeks, proceeded on to Carson to enter upon the duties of office there, but Cradlebaugh denied the right of the President to remove him from office or to appoint his successor till after four years from the time of his appointment—which, according to the organic act, was the duration of the term of office of the Federal Judges—should have expired and he refused to retire from his dignified position or vacate his seat on the bench *in favor of the new appointee*; the consequence of which was that Flenniken appointed a clerk and proceeded to business, and two Federal Judges were officiating and two Federal Courts were in operation in the Western District at the same time. Cradlebaugh, however, was the favorite of a majority of the people in that region in those days and consequently prevailed over Flenniken, and, after officiating for awhile the latter yielded as a matter of necessity to prevent being mobbed, as stated, and let Cradlebaugh go ahead, which he continued to do till the Territory of Nevada was organized, when he was elected Delegate to Congress, and Flenniken returned to Pennsylvania by the way he came.

Of the cases decided by Cradlebaugh while thus acting, a large proportion of them were taken up to the Supreme Court, by appeal, or writs of error, and in every instance the judgment rendered in the District Court was reversed.

While Judges Flenniken and Crosby were in Great Salt Lake City, in the summer of 1860, and just before Flenniken went to Carson, the two dignitaries, who did not appear to be much better versed in legal matters than their predecessors, went to the Court House in this city on the 24th of September and made an order that the courts in the First District should be held at Provo on the first Monday in March, in the Second District, at Genoa on the third Monday in November, and in the Third District, at Great Salt Lake City, on the 5th Monday in October, each court to continue four weeks. Why they did not wait for the arrival of Judge Kinney, which was daily expected, before undertaking to do something which they did not know how to arrange, was never made to appear. They may have thought that they were complying with the statute in relation to appointing the times for holding courts in the several Districts, but Judge Kinney, on his arrival, as did every other person who had examined the law, thought differently, and, in his opinion, Judge Crosby, on due consideration of the matter, concurred, and when the Supreme Court met on the first Monday in January, 1861, a majority of the Judges of the Supreme Court, then being assembled at the Seat of Government, within the meaning of the statute, the times and places for holding courts, for the transaction of United States business, were fixed and determined; but none of them were ever held excepting in the Third District, to which Chief Justice Kinney was assigned by act of the Legislative Assembly, approved January 18th 1861. By the same act Judge Crosby was assigned to the First District and Judge Flenniken to the Second. The latter was in the District to which he was assigned at the time the assignment was made, but as before stated, was not permitted by Cradlebaugh and his friends to officiate as a Federal Judge, and Crosby while he remained in the Territory, resided in Great Salt Lake City, as Waite and Drake now do, and with one exception never held a Federal or a Territorial Court in his District, and in that one instance his court was of short duration.

In consequence of the course pursued by Eckles, Sinclair and Cradlebaugh *in relation* to courts, disregarding, as they did, the laws of the Territory in relation to the holding of courts for Territorial business and holding no tribunals excepting those of their own creation, the Legislature made no provisions for holding District Courts, from the time the army, under Gen. Johnston, entered the Territory in 1857, till near the close of the tenth annual session in January 1861, when it having been decided by the Supreme Court that the Federal Judges had no legal right to appoint the times and places for holding District Courts for the trial of causes arising under the laws of the Territory and that the proceedings of all Territorial District Courts not held in accordance with Legislative enactments were null and void, the Legislature, as before the crusade, provided by an act approved January 18th 1861, for holding courts for the transaction of Territorial business, at Manti in the First District, on the first Monday in June, at Carson city, in the Second District, on the first Monday in January, the third Monday in April and June and second Monday in August, and at Great Salt Lake City, in the Third District, on the second Monday in March in each year. Judge Kinney has held all the courts in his District from that time to the present. Judge Crosby went to Manti on the first Monday in January, 1861, and held court one or two days; made many threats of what he would do in time to come; adjourned his court without doing anything, and came back to the city where he continued to reside till the 19th of January 1861, when he went east and has since, as reported and believed, uttered and published as many lies concerning the people of Utah as was possible for a man of his capacity to manufacture.

There are many things connected with Judge Crosby's history while here that might be mentioned, which would place him in no enviable light in the eyes of honorable and law-abiding men, but he, like many others, dug his own grave, figuratively speaking and having crept therein and died, we have no disposition to array his acts before the public. Had he discharged the duties of his office as a Federal Judge, resided in the District to which he was assigned and conducted himself honorably while here, he would have been respected, but he choose to do otherwise and is receiving the reward of his doings, as those who have followed in his footsteps will in due time.

To the history of the Federal Judges now here, who have neglected *to officiate* in the office to which they were appointed and subseqnently took, and subscribed a solemn oath to faithfully discharge, we shall devote a chapter or two before they return to the States, unless they take their departure sooner than now anticipated, which at farthest, as we believe, will be at no distant day.