

his liberty he would not substantiate the affidavit. In whose presence was that statement made?

A. In the presence of the entire court, but I was whispering to him at the time.

Q. What induced Thomas to make that assertion?

A. I do not know, sir, I cannot fathom his breast to find it out.

Q. Was there any prior conversation to this?

A. Nothing at all, sir.

Q. And Thomas said, voluntarily, unless he could be assured of his liberty he would not substantiate the affidavit?

A. I do not know whether he said it voluntarily. I went up to him and said, "Good morning," and do not know exactly the conversation.

Q. You stated to him that you were to be prosecuting attorney in a few days?

A. I did, sir, and should have been if the Engelbrecht decision had not been given, that is, if General Grant knows what he is about; I do not know but I shall be yet.

A. Did you, or did you not, General, by reason of representing yourself in that prospective capacity, induce this man to say what he did?

A. Mr. Hagan, an attorney who would ask another one a question of that kind would impugn his honor. I answer, no sir, I did not.

Q. I do not accuse you, General, but you are under cross-examination.

A. All right.

Q. Are you attorney for Gillson, the defendant?

A. I am, sir.

Q. Are you defending him in this proceeding?

A. I am.

Q. Did you ever hear any conversation with Gillson and this man Thomas at Camp Douglas?

A. Never, sir.

Q. You do not know what brought him down to your office?

A. I have already told you that it was because of a conversation I had with Marion. I made the arrangement for him to be brought down to the Marshal's office to give his statement to Mr. High.

Q. For what purpose was he to be brought down?

A. To make his statement if he had any to make. It was not my business at that time, Mr. High was prosecutor.

Q. Who gave the order for him to be brought down, do you know?

A. I do not know, I presume the Marshal. I asked him to bring that man and Mr. Marion, if I am not mistaken in the name, down town. I think Marion obtained bail the same day.

Q. While these persons were in custody and you were on the prosecution, was it customary to have them brought down from Camp Douglas to the Marshal's office?

A. O, the Marshal had control of them. I do not remember whether anybody else was brought down or not. I asked for no one else.

Q. This was an exceptional case, then?

A. O yes, sir.

Mr. Maxwell announced to the court that the defence rested, and he should leave the case in the hands of Mr. Hawley.

Mr. Hagan then briefly reviewed the testimony given, first of the complaining witness, and nothing had been introduced to refute it, showing clearly that intimidation had been exercised to induce him to do a certain thing—namely, sign a certain affidavit against his will, which was a violation of the statutes of this Territory. The evidence of Thomas had been corroborated by Horton, who had overheard a portion of the conversation between Thomas and Gillson, in which the latter said, "You must do this, or you can not obtain your freedom." The testimony of these two men combined, and nothing had been adduced in rebuttal, furnished good reason to believe that a violation of law had been committed, and where that good reason existed the statutes of Utah required that the offender should be held for trial. In reference to the amount of bail that should be required in this case, Mr. Hagan said: "His Honor, the Chief Justice of this Territory, probably late of this Territory, has bound over people charged with small crimes in the sum of two, five or six thousand dollars; I say, in view of the facts proved justice demands that the bail required in this case should be double that usually affixed."

Mr. Maxwell then said that on further reflection he would occupy the attention of the court a few minutes. Every case had its surroundings, in some cases those surroundings could not be gone into in an argument. This case had its sad surroundings. It was not the province of an attorney at all times to cover up crime, and he invited the fullest investigation in the case of his client Gillson. He had treated the proceedings as light and farcical, for there was nothing in the complaint to warrant the holding of the accused, there was nothing in the evidence to sustain the complaint. He then reviewed the testimony of Thomas and Orton, and maintained that there was nothing in either prejudicial to his client.

Mr. Hawley followed, and as a matter of course arrived at precisely the same conclusion as his senior. In the course of his argument he accused Mr. Hagan of trying to create the impression that this community was composed of two classes, one called "Mormons," the other "Gentiles;"

and also expressed his surprise that prominent prosecuting officers were not present to conduct this case.

Mr. Hagan closed the argument as follows:

May it please the court, the gentlemen have submitted that there is nothing in this case, nothing. I contend that there is a great deal. But I will answer the last gentleman's proposition—why are not the prosecuting officers here to take charge of this case? In connection with that I would state that General Maxwell started out with the "peculiar and sad surroundings." They are both peculiar and sad. I do not blame the prosecuting officers for not being present. Probably they are not aware that this proceeding is being had. That I know nothing of. I am employed to prosecute here, and paid for it, and prosecute I will as long as I have a case. The sad surroundings are those, even though the prosecuting officers were aware of this proceeding I would not blame them for being absent. They, I allude now to the parties who have been persecuting men here, have got into a filthy pool; they dabbled their hands in it, they put their feet in it, they have shoved their heads in it, and they are getting the benefit of the pool. That is what is the matter, sir. I do not blame any prosecuting officer for not coming up here to prosecute this case, even though he knew about it. They have dabbled in the pool, and they must take the consequences.

We can not, it is true, get better evidence. How much less do you respect a man who is accused of crime than one who will compel another to do an act against his will. There is the status, sir, of this case. The gentleman made an elaborate argument about the "peculiar and sad surroundings." Who brought on these surroundings, sir? I think that my friend Hawley would have been nothing loth to have brought them on at a certain time. I do not think Gillson would, or any of the other parties who are connected with this prosecution. They have dragged down filth and filth they must take back. General Maxwell hints, by innuendo, that he understands what all this thing means. He does not introduce a witness, however, by way of defence. If he understands what it means, and if he has any defence, in the name of justice, and as an attorney as he is, why does not he rebut or rather contradict the evidence introduced by the prosecution? But no, sir, as soon as he gets through with his own evidence, which amounts to nothing by way of contradiction, he goes right out of the court room, and leaves his junior here. They remind me, sir, of the lion and the jackal. Maxwell is the lion, here is the jackal. The jackal has provided the prey, and I have no doubt but the young gentleman may get a bone before he gets through.

Court. The counsel will please confine themselves to the subject matter.

Mr. Hagan. I simply use this by way of illustration.

Now, sir, General Maxwell said that I did not hesitate to throw dirty water around this case. I would state, sir, that all that has been introduced before you has been plain testimony. If there has been any dirty water in connection with it, it emanated from his brain or from some other portion of his body. I have tried to conduct this case so as to bring the evidence before you as plainly as I possibly could. Thomas, who was first examined, was a dull witness; he is one of those men who is not sharp, but despite the rambling nature of his testimony your honor could not but arrive at the truth—namely, that by reason of these threats he was compelled to swear to that which would implicate innocent people in this community. This was corroborated by this man Horton; and there being nothing produced in rebuttal by the defence, their testimony must be received; and you, sir, as a magistrate, have no right to say that either of these men were imprisoned, or that their testimony can by any possibility be invalidated, for the reason that they have not been convicted. Their testimony, then, sir, stands good before you, and you must take it, sir, as though the most respectable men in this community were to come before you. You have no right to think otherwise under the law.

They, then, having no defence and this being so plain, what is your honor's duty? Is there not probable cause to believe a crime has been committed? Take General Maxwell with his experience, and my friend here (Hawley Jr.), with his ability, if they had had any defence would they not have introduced it? Is not that probable cause, almost of itself, to believe in the commission of crime when two such able luminaries of the law fail to introduce any evidence for the defence? I say, seeing two such able luminaries engaged for the defence, ought they not to have rebutted some portion of the evidence for the prosecution? But no, sir, and here comes what is the stab, or what they try to make the stab, but which glances off. The gentleman thought that I was talking about "Mormons" and something else. He introduced that subject, I never did. But it is the same spirit, sir, of fanaticism which has prevailed in all these prosecutions, that prevails to-day in this court house. You can see it, sir, sticking out. He does not adhere to the evidence, but he lets his small soul fly away with a lie dictated by the spirit of fanaticism, and that is the last of it.

So far as this complaint is concerned, sir, the statutes are clear and emphatic, and as I before remarked you are bound to believe these men until they are convicted of a felony.

Mr. Hagan here read section 24, page 52, of the laws of Utah, and then proceeded:

Does any sane man for a moment believe that this man Thomas did that act of his own free will? Were not the gates of the penitentiary pointed at him by Gillson? "I have put this job on you and unless you will do" so and so—swear to this statement or affidavit, "I will keep you there." What does that mean? Here comes a great Christian detective to a poor devil who is in confinement, and the probability is that he will continue so for the most of his life, threatening, in the most cowardly manner, to keep him in prison unless he did so and so. Is not that coercion? I think it is. Is not that what the statute means when it says, "If a man makes threats against another to compel him to do an act against his will etc?" Do not the statutes cover that? I think so.

So far, sir, as my alluding, as the gentleman wished it understood, to the "late" Chief Justice, I would state, on behalf of myself, that we had a Chief Justice here once, we have not one now. No doubt but writs of *habeas corpus* can be plentifully granted for all that. However, I had no aspersion to cast against Judge McKean, none whatever. The Supreme Court has done its business in that respect, and that is higher authority, sir, than there is in this Territory. I have nothing at all to say against that gentleman, though gentlemen here, by innuendo, may try to say I had; but it is not so. As I have already said, the Supreme Court has done the business so far as he is concerned.

General Maxwell alluded to foul means on the part of the prosecution; but I defy the General, or this young gentleman here, to show any foul means on the part of the prosecution.

Mr. Hawley. Hold me responsible for my own remarks and not for anybody else's.

Mr. Hagan. Yes, sir, if I hold you responsible for all you do not know it will be a great deal. However, I have a right to reply to the gentleman on the part of the defence. He says foul means have been resorted to by the prosecution in this case. Where are they? Not one single iota can be shown. Subpoenas regularly issued, and everything done to ensure a fair and square investigation, still they say it is foul? Why? Simply because they have no evidence to contradict that which has been brought before you. If this man Gillson is immaculate, if he is the innocent man they pretend, why, for goodness' sake, have they not produced some evidence before your honor, to prove it? They have had ample time, no continuance has been refused, they had a fair chance to prepare their defence if they had one, but they come in here without any. What, then, is your honor's duty? Is there any probable cause to believe in the commission of a crime? They have no defence, I have proven the crime, the county in which it was committed, have shown your honor the statutes under which it is punishable. Can you, sir, as a magistrate, in the light of these facts, say there is not reasonable grounds to believe that Samuel H. Gillson is guilty as charged in the complaint? I say no, sir. With that, if your honor please, I close, it being unnecessary to proceed further. I would ask your honor, that the defendant be bound in a sufficient amount to keep him here; and as I before remarked, they having raked up the filth, let them abide the consequences, and let the law have its due.

The Court then delivered the following decision:

It has been observed here that it was thought there must be some cause why prominent prosecuting attorneys were not present to conduct this case. I would say, as a magistrate that if they but knew how much the court appreciates longwinded lectures and opinions of attorneys, they would feel very much like keeping away. It is usually the case in these examinations, with the attorneys that take part in them, that they spend as much time as though there was an important cause upon trial, and one might suppose from the arguments of counsel that the defendant before the court to-day is upon trial. This is a mistake—this is a mere examination before a committing magistrate to ascertain whether there is sufficient evidence to justify further proceedings or to order a committal for trial. Under these circumstances, as a general thing the less that is said other than what relates to the testimony enables the court the more readily to reach a conclusion.

I will now notice some few points of the testimony that has been given in this case. The complaint sworn to is before the court; corroborating this complaint is the evidence of two witnesses. The evidence of one of them—the complaining witness—is, that when he came to this city from Camp Douglas, he, before signing a certain affidavit, which is alleged to be the cause of his coming here, had a lengthy consultation or conversation with the defendant; and he states the nature and character of that conversation; he states most distinctly that that conversation was threatening and coercive; was of such a character as gave him to understand that he must sign this affidavit, otherwise he would be liable to spend, peradventure, a liberal share of his

days in the penitentiary. He testified, distinctly before this court in this examination that he was informed positively by the defendant that he had parties at his command who would swear to those facts against him which would confine him from his liberty. He was at this time virtually in custody, and it was held out to him, according to the evidence, that by conforming to these requirements, and subscribing to a certain affidavit he would be permitted to have his liberty. According to this evidence there was not only a violation of law of a threatening character, but also a violation of law in the undue influence used, calculated to induce that man to commit a crime by swearing to a false affidavit. When a man is deprived of his liberty, which is so dear to him, in hopes of regaining it he will often do those things which he never would do under other circumstances.

These are the circumstances under which, as appears from the evidence, the signing of this affidavit was obtained—not only of coercion of a threatening character, but also of inducements held out that he should obtain his liberty. This is a degree of trifling with men's liberties which can not be tolerated in any community, and when a man who professes to be an officer of the government will avail himself of the advantages which he may possess because of parties being under restraint, and uses them to tamper with their liberties and veracity, as it appears from the evidence this defendant did, it is heinous, most heinous in its character.

It further appears, from corroborating testimony, that there was a certain statement made in which the defendant said to the complaining witness that he must do a certain thing to get discharged. What this "must do" was, does not appear. But confirms the evidence that coercion was used to accomplish a certain end and thereby the witness was put in fear of certain consequences if he did not comply. This fear of serious consequences resulting from not complying was expressed in the hearing of the witness Horton.

These evidences all go to sustain each other and in arriving at the fact that there was an influence used that was criminal in its character.

With these facts before the court, as a committing magistrate, the court considers that it has just and proper reasons to believe that an offence has been committed in the eyes of the law; and hence it becomes the duty of the Court to pursue the course which the law points out. Not that the court would wish to follow the recommendation that has been given to double the amount because others have exceeded what was considered honorable and right in regard to imposing heavy bail; the court does not feel disposed to pursue this course. But in this case, under the circumstances the court will fix the bail that will be required in the amount of three thousand dollars, for the appearance of the defendant at the next regular term of the Probate Court of this county to answer thereto or in default to be committed.

During the evening bonds were given by one of the Walker Bros. and Gillson was released.

#### The Suez Canal.

The Suez Canal is replying to its detractors by the most powerful of all arguments—hard money. The report of M. de Lesseps, read at the meeting of the stockholders at Paris, contains the gratifying assurance that not only is the canal self-supporting, but that in a few years they may expect to receive a dividend of five per cent. When we consider that \$300,000 is annually expended for the purpose of keeping the canal in order, exclusive of incidental expenses, the result is very promising. The manner of levying the tariff on the registered tonnage of the ship, being manifestly unjust, as the vessels of certain countries were taxed more than those of others, their carrying capacity being often the same, did much to keep the receipts of the company down; but the directors have cut the knot by deciding upon the use of the British system of measurement for all vessels hereafter. Ships of three thousand tons having passed through the canal, its usefulness is perfectly demonstrated, and a corresponding increase in the eastern commerce of the Southern European nations is seen. It will be seen that the canal is not to be a profitable speculation to a few, but a great and lasting benefit to the many; and its achievement being one of the great victories of peace is the most honorable triumph of France.—*Boston Traveler*.

The term "ultramontane" is much used in books and newspapers, and but little understood. It is one of those words which, from representing a locality, has come to represent a religious belief and a political party. Ultramontane literally means beyond the mountains. When used as a political term, it refers to Italy and the political and religious tenets of the Church of Rome. Ultramontanism is a belief in the unbounded supremacy of the Pope and the union of the Church with the State. Representatives of these principles, in whatever nation of Europe they are found, are called ultramontanes. In Spain, in France, in Germany and Austria, the ultramontane party has been a strong element in the direction of public affairs.