

At 10 a.m. rode out with Mr. Jackson.

At home most of the day.

The "Appeal to the Green Mountain Boys" sent to press.

Severe frost, so that the ice is on the water in the house.

W. L. D. Ewing writes to Major John Bills: "The foregoing opinions constitute my reason for refusing to issue the warrants in your favor. I am not satisfied myself entirely, of the correctness of the opinions of the Attys. General. If you should be dissatisfied with the decision, I would advise you to raise the question before the supreme court, which will be in session on the 2nd Monday of December. I am the more anxious that this should be done, because I wish to be satisfied whether I was correct or not in issuing warrants to you in the spring. Be pleased to advise me on the subject.

Respectfully,

W. L. D. EWING, Auditor."

Enclosing the opinion of the Attorney General Josiah Lamborn as follows:—

"Springfield, Illinois, Nov. 30, 1843.

I have examined the claim of J. C. Bennett, as brigade inspector of the Nauvoo Legion, and it is my opinion that the claim should be disallowed.

The legislature in giving authority, for the organization of a body of 'independent military men' at Nauvoo, intended no doubt that all expenses, &c., except 'their proportion of public arms' should be defrayed by the city and its privileged Legion.

They occupy a novel position, disconnected from the military communities, of the whole State, and in no way subject to the regular military officers, possessing an exemption, even from subjection to the general military laws, with a law making power invested in their own Legion. It is not reasonable to suppose that the Legislature would confer so many exclusive favors, and yet pay those who profit by this condition of things, as much as is paid to regular militia officers.

In the absence of any express provision by law to authorize the payment of the claim, I can see nothing from which an authority of the kind could be derived, and therefore advise accordingly.

J. LAMBORN, Atty. General."

And copy of letter from J. N. McDougall to Gen. W. L. D. Ewing:—

"Springfield, Illinois, Nov. 30, 1843.

Genl. W. L. D. Ewing, Auditor, &c.:—

I have examined the claim of John Bills, brigade major of the Nauvoo Legion, for services under the 53 sec. of the militia law, and have arrived at the conclusion that the Nauvoo Legion are not to be considered, as a part of the regular militia of this State, and that the general law has no further application to them than is expressly provided for in the law authorizing their organization. The law providing for the organization of the Legion, making no provision for the payment of its officers by the State. It is my opinion that the above claim ought not to be audited.

The Legion was organized by the city council, is subject to their control for the purpose of enforcing their ordinances—it is entirely independent of the general military law, may have a different organization, make laws for its own government, and seems evidently designed to sustain the municipal authorities of Nauvoo. If there are expenses to be paid, the municipality of which they form a very important element must meet them. I am with great respect,

Your obedient servant,

J. N. McDOUGALL."

Mr. Ewing reported to Major Bills that the returns made out (for Mr. Bills) and sent to the State Department, were the best reports by any brigade major in the State, and did him great credit: the refusal to pay him for his services is a mere pretext.

As the Nauvoo charter requires that the Nauvoo Legion shall perform the same amount of duty as is now or may hereafter be required of the regular militia of the State, and shall be at the disposal of the Governor for the public defence, and the execution of the laws of the State, and be entitled to their proportion of the State arms, and were it not for the prejudice against us on account of our religion—his claim would have been paid without a word of complaint.

Friday, December 1.—At home. In the evening walking out, and administering to the sick.

At noon Dr. Richards called on me to get a petition to Congress for an appropriation to improve the rapids.

I continue to receive letters from elders in the different States, giving news of the progress of the work.

Clear and cold day, some ice floating in the river.

Saturday, 2.—Prayer meeting from 1 to 6 p.m., in the Assembly Room, over the Store; O. Hyde, P. P. Pratt, W. Woodruff, Geo. A. Smith, and O. Spencer received their endorsements and further instructions in the Priesthood; about 35 persons present.

A conference was held at Alexander in Genesee county, N. York; 10 branches, containing 44 elders and 206 members, were represented; 2 high priests, 1 seventy, 21 elders and 1 deacon present.

Sunday, 3.—I arrived at the Assembly Room about noon, found all present, except Hyrum and his wife; he had slipped and turned his knee joint in backward, and sprained his large muscle, and I had been ministering to him; and Emma had been unwell during the night. After the meeting was organized, W. W. Phelps read my "Appeal to the Green Mountain Boys," which was dedicated by prayer after all had spoken upon it; we also prayed for Nathan Pratt, who was very sick. Hyrum and others. I afterwards instructed them in the things of the priesthood.

Monday, 4.—At 6 in the evening I attended the adjourned meeting of citizens in the Assembly Room, which was crammed with a select congregation; many could not get admission: there were two Missourians present. I made some observations at the opening of the meeting, requested them to be calm and cool, but let the spirit of '76 burn in their bosoms, and when occasion requires, say little, but act, and when the mob comes, mow a hole through them.

My appeal to the Green Mountain boys was read by W. W. Phelps.

Elder Parley P. Pratt read his appeal to the State of New York.

My clerk W. Richards read the memorial to Congress, when the assembly unanimously voted their approbation of the memorial; when I spoke two and a half hours, relating many circumstances which transpired in Missouri, not mentioned in the memorial. I have already had thirty eight vexatious law suits, and have paid Missouri \$150,000 for land. I borrowed \$500 of Judge Young in Washington, to pay the expenses of the party that accompanied me, and had to borrow of others.

Daniel Avery and his son were kidnapped from the neighborhood of Warsaw, by a company of Missourians, assisted by some Anti-Mormons of this county, and carried into Missouri.

Tuesday, 5.—Six p.m. met the Twelve, also Phelps, Clayton and Turley, in council in the office on important business.

Advised the Twelve to raise money to send to Elder Hyde, who is east, for him to get paper to print the Doctrine and Covenants, and get new type and metal for stereotyping the same.

Wednesday, 6.—At home, and took the following affidavit:—

State of Illinois, }
City of Nauvoo, } ss.

On the sixth day of December, in the year of our Lord one thousand eight hundred and forty three, came Dellmore Chapman before me, Joseph Smith, mayor of said city, and after being duly sworn, deposed and saith, that on the nineteenth day of November, 1843, a man named Richardson came to one of his neighbors, living in Bear Creek precinct, in the county of Hancock, named Philander Avery, and enticed him to the Mississippi at Warsaw by false pretences, and from thence by a company he was forced over the river, and taken to Monticello Jail; and that on the second day of December, some of the same party and others came to the aforesaid Bear Creek and kidnapped Daniel Avery, the father of the aforesaid Philander Avery, and by force of arms hurried him also across the said Mississippi river into the State of Missouri, to aforesaid jail at Monticello, Lewis county, where your said affiant verily believes they are both now incarcerated illegally and inhumanly in prison, and further report says that some of them are to come to Nauvoo next, to kidnap Nelson Turner and further your affiant saith not.

DELLMORE CHAPMAN.

Subscribed and sworn to before me this 6th day of December, 1843.

JOSEPH SMITH, Mayor.

Upon which I wrote to "His Excellency Thomas Ford.

Nauvoo, Dec. 6, 1843.

Sir:—The enclosed affidavit is forwarded to your Excellency for instructions to know what shall be done in the premises. I shall act according to the best of my judgment constitutionally, till I receive your instructions, and in the mean time shall forward, as soon as they can be had, all the facts relative to the case, as a suitable person will go immediately to the place, and get the necessary affidavits. Send your instructions by the bearer.

Respectfully,

I have the honor to be your obedient servant,
JOSEPH SMITH, Lieut. Gen. of N. L.

P.S. Shall any portion of the Legion be called out?

N.B. An express has just reached me that Governor Reynolds will make another demand for me. I rely on the honor of Illinois, for no writ can legally issue against me. I have suffered from their insatiable thirst for my blood long enough, and want the peace of my family to remain undisturbed.

Wednesday, 6.—Esq. Goodwin and others, not members of the church, petitioned the Governor not to help Missouri persecute the Saints.

Thursday, 7.—At 11 a.m., a meeting of the citizens of Nauvoo was held, the minutes of which I extract from the Neighbor, as follows:—

"At a meeting of the citizens of Nauvoo, held near the Temple, on the 7th day of December, 1843, Alpheus Cutler was called to the chair, and Willard Richards appointed secretary, whereupon, after the object of the meeting was stated, a committee of three, namely, W. W. Phelps, Reynolds Cahoon and Hosea Stout, were appointed to draft a preamble and resolutions, expressive of the sentiments of the people of the city of Nauvoo, relative to the repeated unlawful demands by the State of Missouri for the body of General Joseph Smith, as well as the common cruel practice of kidnapping citizens of Illinois, and forcing them across the Mississippi river, and then incarcerating them in the dungeons or prisons in Missouri; and after a few minutes' absence they returned with the following:—

Whereas the State of Missouri, with the Governor at the head, continues to make demands upon the executive of Illinois for the body of General Joseph Smith, as we verily believe, to keep up a system of persecution against the Church of the Latter Day Saints: for the purpose of justifying the said State of Missouri in her diabolical, unheard of, cruel and unconstitutional warfare against said

Church of Latter Day Saints, and which she has practised during the last twelve years, whereby many have been murdered, mobbed, and ravished, and the whole community expelled from the State.

And also to heave dust in the eyes of the nation and the world, while she, as a State, with the government to back her, continues to slip over the river and steal the property of the Latter Day Saints, and kidnap the members of said church to glut the vengeance, malice, revenge and avarice: and to make slaves of the said captives, or murder them; Therefore,

Resolved unanimously, as we do know that Joseph Smith is not guilty of any charge made against him by the said State of Missouri, but is a good, industrious, well meaning, and worthy citizen of Illinois, and an officer that does faithfully and impartially administer the laws of the State, that we, as citizens of Illinois crave the protection of the constitution and laws of the country as an aegis to shield him, the said General Joseph Smith, from such cruel persecutions, beseeching the Governor of Illinois not to issue any more writs against the said General Joseph Smith, or other Latter Day Saints (unless they are guilty,) but to let the Latter Day Saints breathe awhile like other men, and enjoy the liberty guaranteed to every honest citizen by the magna charta of our common country.

Resolved, That as citizens of the State of Illinois, we solicit the attention of the Governor and officers generally of the State, to take some lawful means and measures to regain the citizens that have been kidnapped by the Missourians, and to prevent the said Missourians and government from committing further violence upon the citizens of Illinois.

Resolved, as the sense of this meeting, that, according to the true meaning of law, that those citizens of any section of country, who do not rise up as virtuous freemen, (when any portion of inhabitants congregate or combine to injure, slander or deprive another portion of their rights,) and magnify the law, to clear themselves from such unhallowed attempts to subvert order and law, that they by their silence make themselves accessories of the crime of such unlawful assemblage, or outrageous individuals.

Resolved unanimously, That we solicit the Governor, by all honorable means, to grant us peace, for we will have it.

ALPHEUS CUTLER, Chairman.

WILLARD RICHARDS, Secretary."

In the afternoon Lucien Woodworth started with the papers to the Governor, also the petition from Goodwin and others, and Dellmore Chapman's affidavit.

The German brethren met at the Assembly Room at 6 p.m., and chose Bishop Daniel Carn as their presiding elder, and organized to have preaching in their native language.

Directed copies of my Appeal to the various authorities of Vermont and the United States.

Friday, 8.—At 11 a.m., I went to my office and gave instructions to my clerk for the drawing of a draft of a dam on the Mississippi river, and directed that the city council be called at four this afternoon to make preparations for any invasion from Missouri.

Willard Richards and Philip B. Lewis made an affidavit, which I insert:—

State of Illinois, }
City of Nauvoo, } ss.

On the 8th day of December, 1843, came Willard Richards and Philip B. Lewis before me, Joseph Smith, mayor of said city, and after being duly sworn, depose and say, that they have been informed that two men have been kidnapped recently by the Missourians, in connection with some of the lawless inhabitants of the county of Hancock, and that rumors are now afloat, that it is the intention of said lawless persons in connection with the aforesaid Missourians to kidnap some of the citizens of this city, and further your affidants would state that they are of opinion to prevent difficulties of such a vexatious nature, that something should be done to secure the peace of this city from being disturbed, and further your affidants say not.

WILLARD RICHARDS,
PHILIP B. LEWIS."

Subscribed and sworn to before me this 8th day of December, 1843.

W. W. PHELPS, Clerk.

Whereupon I issued the following notification:—

State of Illinois, }
City of Nauvoo, } ss.

To the Marshal of said city: greetings:—

Whereas complaint has been made to me upon oath, that some persons have been kidnapped by the Missourians, in connection with some of the lawless inhabitants of Hancock county, and that threats have been made that some of the citizens of Nauvoo, will be kidnapped or arrested, and forcibly carried away from said city without being allowed the benefit of the writ of habeas corpus, according to the ordinance in such case made and provided, you will therefore take the necessary measures to have the rights of the citizens of this city held sacred, and the ordinances of said city duly carried into full force and effect: To which end should you judge that the peace and safety of the city required it, you are further notified to call for a suitable portion of the Nauvoo Legion to be in complete readiness to compel obedience to the ordinances of said city.

Given under my hand and seal this 8th day of December, 1843.

JOSEPH SMITH, Mayor (L.S.)

W. W. PHELPS, Clerk M.C."

In consequence thereof I received from the City Marshal:—

"City of Nauvoo, December 8, 1843.

Sir:—Your order to have the ordinances of this city fully carried into effect will be duly attended to, but in order so to do, it will be necessary for you as mayor of the city to issue

orders to Major General Wilson Law, for a suitable portion of the Nauvoo Legion to be in readiness to compel obedience to said ordinances if necessary.

Respectfully, &c.,

H. G. SHERWOOD, City Marshal.

To Joseph Smith, mayor."

And I issued

"Head Quarters Nauvoo Legion. ?

City of Nauvoo, December 8, 1843. }

The marshal of this city having made a demand of me, for a suitable portion of the Nauvoo Legion to protect the rights of the citizens, and carry the ordinances of said city into full effect, you are hereby directed and required to hold in readiness such portions of the said Nauvoo Legion, which you have the honor to command, as may be necessary to compel obedience to the ordinances of said city, and secure the peace of the citizens, and call them out, if occasion require, without further notice.

With due regard, I have the honor to be

Your obedient servant,

JOSEPH SMITH, Lieut. Gen. N. L."

Major Gen. WILSON LAW,
Commanding Nauvoo Legion."

Four p.m., attended city council which passed "An extra ordinance for the extra case of Joseph Smith and others."

"Whereas Joseph Smith has been three times arrested and three times acquitted upon writs founded upon supposed crimes or charges preferred by the State of Missouri; which acquittals were made from investigations upon writs of habeas corpus; namely, one in the United States court for the district of Illinois; one in the circuit court of the State of Illinois; and one in the municipal court of Nauvoo;

And whereas a *nolle prosequi* has once been entered in the courts of Missouri upon all the cases of Missouri against Joseph and others.

And whereas there appears to be a determined resolution by the State of Missouri, to continue these unjust, illegal, and murderous demands for the body of General Joseph Smith.

And whereas it has become intolerable to be thus continually harrassed and robbed of our money to defray the expenses of these prosecutions.

And whereas, according to the constitution of Illinois, 'all men are born equally free and independent, and have certain inherent and indefeasible rights; among which are those of enjoying and defending life and liberty, and of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.'

And whereas it is our bounden duty by all common means, if possible, to put a stop to such vexatious law suits and save expense; Therefore—

Section 1. Be it ordained by the city council of the city of Nauvoo, according to the intent and meaning of the charter for the benefit and convenience of Nauvoo, that hereafter, if any person or persons shall come with process, demand or requisition, founded upon the aforesaid Missouri difficulties, to arrest said Joseph Smith, he or they so offending shall be subject to be arrested by any officer of the city, with or without process, and tried by the municipal court, upon testimony, and if found guilty sentenced to imprisonment in the city prison for life, which convict or convicts can only be pardoned by the Governor, with the consent of the mayor of said city.

Section 2. And be it further ordained, that the preceding section shall apply to the case of every and all persons, that may be arrested, demanded or required upon any charge founded in the aforesaid Missouri difficulties.

Section 3. And be it further ordained, that the jury that makes the presentment, in any case above specified, shall not, nor either of them, act as jurors on the final trial; but the trial shall be conducted according to the fifth and sixth articles of the amendment to the constitution of the United States.

Passed December 8, 1843.

JOSEPH SMITH, Mayor.

WILLARD RICHARDS, Recorder."

SINGULAR WHALE FIGHT.—We mentioned, says the Northern Ensign, that a whale, 63 feet long, had been picked up at sea, and taken ashore at Nybster, some twelve miles from Wick, Scotland.

It seems from information on which we can rely, that the whale was not, as was popularly supposed, drifted dead from the Greenland seas, but that he had fallen, only the previous day, in single combat between himself and another monster of the seas. The conflict, which took place about a mile and a half from the shore, and which was witnessed by a number of fishermen and others, is described as having been protracted and bloody. The two monsters kept battling with each other, at times with their heads, and at times with their tails, raising a tremendous spray for a distance of many yards. After a fierce and close encounter, they would each retreat to a considerable distance, and, after a brief rest, would again meet in collision, approaching each other with locomotive speed, at the rate of from 50 to 60 miles an hour.

On recovering from the stunning effect of such a sudden attack, they would again resume the hand to hand fight, rising up into the water, springing up distances from 20 to 30 feet, and coming down on each other with fearful violence. Meanwhile the sea for a great distance round about had assumed a bright red color, indicating that an immense quantity of blood had been shed. Other animals appeared to have fled from the scene of the engagement; even birds kept at a distance from it. For three hours the battle was prolonged, at the close of which, one of the whales became motionless, and the other retired from the field of battle. Next morning, as early as 4 o'clock, the whale referred to was found not far from the spot where the engagement took place.