

AFFAIRS IN UTAH!!

THE PRESIDENT'S INSTRUCTIONS TO THE DISTRICT ATTORNEY OF THE TERRITORY.

The following letter from the United States Attorney General to the District Attorney for Utah is published in the *Washington Constitution*:—

ATTORNEY GENERAL'S OFFICE,
May 17, 1859. }

SIR:—Your letters of March 24 and April 8, addressed to me have been received. The grave importance of the facts contained in them, and in other communications from Utah by the same mail, required that the whole correspondence of the several departments with the officers of the Territory should be laid before the President. He has carefully considered the subject, and his opinion will be found expressed in a letter from me to the two Associate Justices of the Territory—a copy of which I send you.

You are clothed with the authority of a public accuser for the Territory. It is your duty to commence and carry on all public prosecutions with such aid and assistance as you see proper to call in. On proper occasions, and in a proper, respectful manner you must oppose every effort which any judge may make to usurp your functions.—Do not allow your rights to remain unasserted.—If the judges will confine themselves to the simple and plain duty imposed upon them by law, of hearing and deciding cases that are brought before them, I am sure that the business of the Territory will get along very well. This must be impressed upon their minds, if possible, for, if they will insist upon doing the duties of Prosecuting Attorney, and Marshal, as well as their own, every thing will be thrown into confusion, and the peace of the Territory may be destroyed at any moment.

But your duty must be performed with energy and impartiality. Every crime that is committed, no matter by whom, should be exposed and punished. I need not say that you are to make no distinction between Gentile and Mormon, or between Indian and white man. You will prosecute the rich and the poor, the influential and the humble with equal vigor, and thus entitle yourself to the confidence of all.

It is only by these general remarks that I can express the wishes of the President with reference to your office; for at this distance it is impossible to give you detailed instructions. But there is one subject to which I would call your special attention. It appears that a company of emigrants from Arkansas to California was attacked at the Mountain Meadows, three hundred miles south of Salt Lake, and one hundred and nineteen cruelly murdered, none being spared except a few children, all of whom were under seven years of age. This crime, by whomsoever committed, was one of the most atrocious that has ever blackened the character of the human race. The Mormons blame it upon the Indians, and the accusation receives some color from the fact that all the children who survived the massacre were found in the possession of Indians. Others, and among them a judge of the Territory, declare their unhesitating belief that the Mormons themselves committed this foul murder. All the circumstances seem, from the correspondence, to be enveloped in mystery. In your letter the manner of the murder is described—showing that the emigrants were attacked within a corral which they had formed for defence, that they agreed to surrender their arms upon the promise that their lives should be spared, and after doing so were all of them treacherously butchered. Why does the information stop there? If that much be known how is it that we know no more? Who were the parties that received the surrender, and how is it proved? Cannot the Superintendent of Indian Affairs, or some one connected with that department of the public service trace back the children from the Indians in whose possession they were found to the corral where their parents were slain. It is said that some of the Mormon inhabitants of Utah have property of the emigrants in their possession. If this be true, will it not furnish a thread which, properly followed, would lead back to the scene of the crime?

These are mere suggestions, which are intended to show the interest of the government on the subject, rather than to instruct you in the performance of your duty. It is, however, confidently expected of you that you will intermit no watch, nor let any opportunity escape you of learning all that can be known upon this subject. If you shall be under the necessity of employing agents, such reasonable expenses as you may be put to on that account will be paid.

Your conduct at Provo seems, from all accounts of it, to have been perfectly proper, and is fully approved by the President. Your refusal on a former occasion to violate the promise of pardon contained in the President's proclamation was equally praiseworthy and correct.

I am, very respectfully,

Yours &c.,

ALEX. WILSON, Esq., J. S. BLACK.
U. S. District Attorney,
Utah Territory.

FROM UTAH COUNTY.—Mr. D. Graves, secretary of the Utah Branch of the D. A. and M. Society, writing from Provo, says that the society is in a flourishing condition and an increased interest is being manifested in all parts of that county in relation to home manufactures, agriculture, stock raising, &c.

THE WEATHER.—During the past week the weather has been extremely hot. There was a slight shower on Monday between one and two p.m., but not sufficient to cool the air nor to wet the ground enough to do any good.

[From the Weekly Constitution.]

HIGHLY IMPORTANT LETTER.

We publish below a highly important and interesting letter from the Attorney General of the United States (under the instruction of the President) to the Judges of Utah, which will command universal attention. It is written with the ability which always characterizes the productions of Judge Black and leaves no room for doubt touching the views of the Administration in reference to affairs in Utah:

ATTORNEY GENERAL'S OFFICE,
May 17, 1859. }

GENTLEMEN: The President has received your joint letter on the subject of the military force with which the court for the Second District of Utah was attended during the term held at Provo city. He has carefully considered it as well as all other advices relating to the same affair, and he has directed me to give you his answer.

The condition of things in Utah made it extremely desirable that the judges appointed for the Territory should confine themselves strictly within their own official spheres. The Government had a District Attorney who was charged with the duties of a public accuser, and a Marshal who was responsible for the arrest and safe keeping of criminals. For the judges there was nothing left except to hear patiently the causes brought before them, and to determine them impartially according to the evidence adduced on both sides. It did not seem either right or necessary to instruct you that these were to be the limits of your interference with the public affairs of the Territory, for the Executive never dictates to the judicial department. The President is responsible only for the appointment of proper men. You were selected from a very large number of other persons who were willing to be employed on the same service, and the choice was grounded solely on your high character for learning, sound judgment, and integrity. It was natural, therefore, that the President should look upon the proceedings at Provo with a sincere desire to find you in all things blameless.

It seems that on the 6th of March last, Judge Cradlebaugh announced to the commanding officer of the military forces that on the 8th day of the same month he would begin a term of the District Court at Provo, and required a military guard for certain prisoners, to the number of six or eight, who were then in custody, and would be triable at Provo. The requisition mentions it as a probable fact that a large band of organized thieves would be arrested, but the troops were asked for without reference to them. Promptly responding to this call, the commanding general sent up a company of infantry who encamped at the Court House, and soon afterwards ten more companies made their appearance in sight, and remained there during the whole term of the court.

In the mean time, the Governor of the Territory, hearing of this military demonstration upon the town, previously supposed to be altogether peaceful, appeared on the ground, made inquiries and, seeing no necessity for the troops, but believing, on the contrary, that their presence was calculated to do harm, he requested them to be removed. The request was wholly disregarded.

The Governor is the supreme executive of the Territory; he is responsible for the public peace. From the general law of the land, the value of his office, and the instructions he received through the State department, it ought to have been understood that he alone had power to issue a requisition for the movement of the troops from one part of the Territory to another; that he alone could put the military forces of the Union and the people of the Territory into relations of general hostility with one another. The instructions given to the commanding general by the War Department are to the same effect. In that paper a "requisition" is not spoken of as a thing which anybody except the Governor can make. It is true that in one clause the General is told that if the Governor, the Judges or the Marshal shall find it necessary to summon directly a part of the troops to aid either in the performance of his duty he (the General) is to see the summons promptly obeyed. This was manifestly intended to furnish the means of repelling an opposition which might be too strong for the civil posse and too sudden to admit of a formal requisition by the Governor upon the military commander.

An officer finds himself resisted in the discharge of his duty, and he calls to his aid first the citizens, and, if they are not sufficient, the soldiers.—This would be directly summoning a part of the troops. A direct summons and a requisition are not convertible terms. The former signifies a mere verbal call upon either civilians or military men for force enough to put down a present opposition to a certain officer in the performance of a particular duty; and the call is to be always made by the officer who is himself opposed upon those persons who are with their own hands to furnish the aid. A requisition, on the other hand, is a solemn demand in writing made by the supreme civil magistrate upon the Commander-in-chief of the military forces for the whole or a part of the army to be used in a specified service. In a Territory like Utah the person who exercises this last mentioned power can make war and peace when he pleases, and holds in his hand the issues of life and death for thousands. Surely it was not intended to clothe each one of the Judges, as well as the Marshal and all his deputies, with this tremendous authority.—Especially does this construction seem erroneous when we reflect that these different officers might make requisitions conflicting with one

another, and all of them crossing the path of the Governor.

Besides, the matter upon which Judge Cradlebaugh's requisition bases itself was one with which the judge had no sort of official connection. It was the duty of the marshal to see that the prisoners were safely kept and forthcoming at the proper time. For aught that appears, the marshal wanted no troops to aid him, and had no desire to see himself and his civil posse displaced by a regiment of soldiers. He made no complaint of weakness, and uttered no call for assistance. Under such circumstances, it was a mistake of the judge to interfere with the business at all.

But, assuming the legal right of the judge to put the marshal's business into the hands of the army without the marshal's concurrence, and granting, also, that this might be done by means of a requisition, was there in this case any occasion for the exercise of such power? When we consider how essentially peaceable is the whole spirit of our judicial system, and how exclusively it aims to operate by moral force, or at most by the arm of civil power, it can hardly be denied that the employment of military troops about the courts should be avoided as long as possible.—*Inter arma silent leges*, says the maxim; and the converse of it ought to be equally true, that *inter leges silent arma*. The President has not found, either on the face of the requisition or, in any other paper received by him, a statement of specific facts strong enough to make the presence of the troops seem necessary. Such necessity ought to have been perfectly plain before the measure was resorted to.

It is very probable that the Mormon inhabitants of Utah have been guilty of crimes for which they deserve the severest punishment. It is not intended by the Government to let any one escape against whom the proper proofs can be produced. With that view, the District Attorney has been instructed to use all possible diligence in bringing criminals of every class and of all degrees to justice. We have the fullest confidence in the vigilance, fidelity, and ability of that officer. If you shall be of opinion that his duty is not performed with sufficient energy, your statement to that effect will receive the prompt attention of the President.

It is very likely that public opinion in the Territory is frequently opposed to the conviction of parties who deserve punishment. It may be that extensive conspiracies are formed there to defeat justice. These are subjects upon which we, at this distance, can affirm or deny nothing. But, supposing your opinion upon them to be correct, every inhabitant of Utah must still be proceeded against in the regular, legal, and constitutional way. At all events, the usual and established modes of dealing with public offenders must be exhausted before we adopt any others.

On the whole, the President is very decidedly of the opinion—

FIRST—That the Governor of the Territory alone has power to issue a requisition upon the Commanding General for the whole or part of the army.

SECOND—That there was no apparent occasion for the presence of troops at Provo.

THIRD—That if a rescue of the prisoners in custody had been attempted, it was the duty of the Marshal and not of the Judge to summon the force which might be necessary to prevent it.

FOURTH—That the troops ought not to have been sent to Provo without the concurrence of the Governor, nor kept there against his remonstrance.

FIFTH—That the disregard of these principles and rules of action has been in many ways extremely unfortunate.

I am, very respectfully, yours, &c.,

J. S. BLACK.

HON. J. CRADLEBAUGH,

HON. C. E. SINCLAIR,

Associate Justices, Supreme Court, Utah.

Five or six thousand SHINGLES and a few thousand feet of LUMBER wanted at this office.

GLEANINGS FROM EXCHANGES.

PUBLIC MORALITY in Hayti is at an alarming discount. The Hayti correspondent of the *N. Y. Tribune*, writing from Cape Haytien, Feb. 3, quotes the following remark of a mulatto merchant there:

It is not fair to judge us by any standard but the French, for we are Frenchmen, sir, with French manners and language, ideas and morals.

"God save the French, then!" was the correspondent's reply; for as he states, "although a creole of Cape Haytien boasted, in a recent conversation, that there were not more than ten public prostitutes in the city, another, with equal sincerity, avowed his opinion that there were not more than twenty married men in town."

An English gentleman who resides there, says that it is only within the last twelve years that the marriage rite has been in the least regarded by the natives; nor did this originate, says the writer, in any moral idea of right; but because of a growing sentiment against concubinage.

Continence is a virtue exceedingly rare in Hayti. "From the days of the Buccaneers," says the *Tribune* correspondent, "whose first wives, like the first mothers of the Old Dominion, were the refuse of the metropolis of the mother country, down to the era of the

whited-sepulchre prosperity which preceded the great rebellion of the slaves, the cardinal virtue of chastity was little practiced, and held in but slight esteem by the white inhabitants of Hayti, whose example and practice, adding fuel to the hot blood of the natives of Central Africa, demoralized and still further degraded the blacks."

Nor do they seem to have much improved since that era; for even to this day the custom of placing girls prevails to a considerable extent. This abomination is thus described:

It is the practice with the young men, when they wish to live in place with a girl, to first get an introduction to her parents, and then call on her in the evening a few times. They were permitted to sit together with the old folks in a room unlighted, and thus ample opportunity was afforded for the young people to learn each other's minds. Familiarities are permitted on these occasions which would justly shock all Northern parents. After a few visits the mother asks the young man his intentions. He informs her that he desires to "place her daughter." The desire is at once granted; and then the mother practically consents to the seduction—as you call it—of the daughter.

When a young man gets tired of his mistress, thus acquired, he abruptly leaves her to her fate. Girls begin to place at the age of fifteen; but it is stated, most of them are immoral three years younger. A young Creole gentleman, citizen of Hayti, insisted that the concubinage system could not be wrong, "inasmuch as by wars, earthquakes, massacres, marchings and military executions, the disproportion between the sexes is very great, and the necessity for concubinage, therefore, apparent to the wives."

But, tho' there may be some plausibility in this argument, it does not justify the system of seduction, adultery and prostitution that so universally obtains in Hayti.

—WM. SMITH O'BRIEN, the great Irish patriot, who has been on a tour through various parts of the United States, left New York city for his native country, May 28, being accompanied to the Battery by a long procession and escorted down the bay by several steamboats chartered for the occasion.

What effect his visit to this country will have on his future course, remains to be seen; but, as a test of sound judgment, the following advice given to his countrymen during his speech on taking leave of his friends in New York, is decisive and, if persistently adhered to, cannot fail to be of vast benefit to the nation as well as individuals:

If they follow my counsel, they will abstain as much as possible, or altogether from soliciting situations,—for I believe that those who make it a practice to solicit situations rarely succeed in making their fortune during their term of office. I have seen a great many individuals, both in America and Australia who, coming into the country with nothing but the labor of their arms to depend upon, have ended in piling thousands upon thousands, but I do not remember any single instance of a place holder making a magnificent fortune. Therefore it should give me very great pleasure to learn that there was not one single Irishman in the United States who was seeking office as a place-holder. But this, I think, they ought to do: in making choice of a man to fill a public situation, they ought always to select the most honest and most able man, whatever he may be, whether native American or Irish.

With the corruption and bribery that are now necessary to secure public office, even one least desirable, it would seem no part of any honest man's business to seek for such emolument. He would be the loser every way—morally, politically and pecuniarily. As to the paraded "honors" of public office, at the present day, they are too far shrouded in base trickery to possess much attraction for any truly intelligent, high-minded citizen of the republic.

—CHARLES DICKENS, having dissolved his connection with the publication of "Household Words," has commenced the issue of a weekly journal entitled "All the Year Round"—printed in New York and London simultaneously—at \$2.50 per annum.

Messrs. J. M. Emerson & Co., 37 Park Row, New York, are the American publishing agents.

IMPORTANT TO FOREIGN BORN CITIZENS.—The following letter says the *Memphis Bulletin* of May 25, has been handed us by Hume F. Hill, Esq., who has heretofore obtained passports for many of our naturalized citizens, who wish to be entirely safe in relying upon their naturalization for exemption from military service during the existing war:

DEPARTMENT OF STATE,
WASHINGTON, May 17, 1859, }

To Mr. FELIX LECLEK, MEMPHIS, Tenn.:—SIR:—Your letter of the 13th instant has been received. In reply I have to state that it is understood that the French Government claims the military service from all natives of France who may be found within its jurisdiction. Your naturalization in this country will not exempt you from that claim if you should voluntarily repair thither.

I am, Sir, your obedient servant,

LEWIS CASS