

out the law in relation to it, while morally they dissent from its rightfulness.

The people of Utah are placed in this position: Their moral and religious convictions are at variance with a law which has been specially framed to prevent the free exercise of those convictions. They are legally but not morally bound to respect those enactments. They are free to believe them wrong, impolitic, unnecessary and oppressive. But if they carry their convictions into practice and break the law, they must hold themselves ready to bear the penalties which the law provides. But these can only be enforced on conviction. No one can be rightfully punished on suspicion. If the cry is raised, "let the same laws be enforced in Utah as in other parts of this nation," we respond, let the laws be executed in the same manner as in other parts of the nation, and let the executors and administrators of the law see to it that they do not become partial and fanatical, striving to provoke prosecutions in one particular direction to the neglect of others, and straining at a gnat while swallowing a camel.

CHARGE TO THE GRAND JURY.

JUDGE HUNTER ON POLYGAMY.

LYNCHING VIGOROUSLY DENOUNCED.

In charging the Grand Jury in the Third District Court on Friday, Chief Justice Hunter read the act of Congress in reference to polygamy and made the following remarks:

I have specially called your attention to the act of Congress making polygamy, and the other acts referred to, crimes. The act was passed by the Congress of the United States, and, although general in its application to all the territories of the United States, has peculiar application to the Territory of Utah.

In the enactment of the law, Congress undoubtedly had in contemplation the well-known fact that polygamy was to a great extent committed in Utah; that it was an evil detrimental to the policy of the people of the nation; inimical to good order, and calculated to disturb the social relations of the entire community. The wisdom of the legislators in thus providing a means to reach and suppress the growth of the offense, whether gradual or rapid, cannot be doubted, and none but those who have either gone into polygamy or who by a system of sophistical education believe in it, will even doubt it. I am well aware that there are in this Territory a vast number of persons who believe, or profess to believe, that the State has no right or power to provide by the usual mode of legislation for the suppression of such belief, and in that view all may be said to concur. But belief and carrying such belief into effect are different things. That Congress has the power to provide the latter, so far as the punishment of those who actually enter into the polygamous relations is concerned, is not and cannot be a question. The highest supreme tribunal of the land has so decided, and whether it suits the views of the actors in the polygamous drama, is a matter of no consequence. Naturally the condition of the marital relations of a great number of persons in the Territory of Utah, and the teachings of the creed of the Latter-day Saints, has attracted the attention of the people of the United States; much has been said and written on the subject and in connection with much has been said in regard to the peaceableness of this community. Let it be admitted that in Utah this latter state of affairs exists, and that all laws, save one, for the proper governance of the people, are enacted and enforced. That the violations of the penal statutes affecting crimes, except this one, are no more, or if you please, are far less frequent than in the States of the Union, and that this one crime is committed by a very large number, and the influence and the teachings of the leaders and members of a Church tend to an increase of it. Would not this fact alone take from us all the prestige of being an orderly and peaceful community?

Crimes in this country are purely statutory. That is, certain acts, are by the statutes enacted by the legislators, who are the delegates of the people, and therefore the enactments are by the expressed will of the peo-

ple, declared to be crimes, and that all persons perpetrating them are amenable to punishment. These acts, so long as they remain unrepealed, or are set aside as being unconstitutional and void, are the laws of the land.

There exists a law upon our statute books, punishing all who steal and convert not another's property. Without this law, might would be the only way to determine ownership, and the strongest would seek to convert to his own use, *volens volens*, the property of the weaker, and so deprive him of it. With the law and the penalty attached to it, upon the stronger, the weaker becomes as strong as the stronger, and is as safe in the property ownership. This law is simply the expressed will of the people, through the agency of a Legislature, and although it may be said to be founded upon the Divine law, that "thou shalt not steal," it is the result of experience in life as well as necessity. Suppose there existed in this community a communistic creed, or sect of people who should enunciate as one of its tenets that property rights were all wrong; that in the very nature of things, there could be no such right; that all things material were the common gift of Deity, and that no one man had a right to an exclusive ownership, could you for an instant so regard that state of affairs, as to make you to refuse to indict one of the sect spoken of who had by force deprived the owner of that property, who had in fact as we say, stolen the property? Laws must be uniform. They must affect all persons the same. The Communist cannot be allowed to assert his views as a defense to his act. He must obey the law by refraining to exercise his belief by acts, and if he violates it he must be made to suffer the penalty.

The same legislative power which enacted the law making stealing a crime, has with equal authority enacted a law making polygamy a crime. Does the fact that a religious body exists in this community that advocates and enunciates that polygamy is right, and that each man who believes in the tenets of that religious organization has the right as a gift of Deity to take to himself as many wives as he sees fit to have, or has the ability to sustain, give to such the right so to do, against the express will of the people declared through the law-making power? Like the Communist, they may believe in the right, but because the law has made it penal to perform the act, like the Communist, they must refrain from the act. I know it will be said that if the majority of the voting classes of the Territory could, without the interposition of the veto power in the Governor, declare their wishes, no law would be passed declaring polygamy a crime, and that that law is against their wishes and affects their belief. But you must remember, gentlemen of the jury, and so must these voters, that while they are in the majority so far as Utah is concerned, they are a very small minority of the people of the Nation. They are, however, supposed to be law-abiding citizens, and are bound, as such, to accept the fact, that so long as our present form of government exists, Congress has the power to declare the act of polygamy a crime, and it having done so, they are legally and morally bound to respect it. No power on earth, at least so far as the United States is concerned, can prevent the sect from teaching the doctrine, except as accessory to the fact, and no one has ever thought to prevent it save as might be done by argument, enlightenment and persuasion, but the act of entering into and committing the crime of polygamy may be punished, and it is your duty to see to it. As citizens of the United States and as grand jurors sworn to inquire into the offenses which have been committed in violation of the laws of the country, it is enough for you to know that there is a law in the United States making polygamy a crime. When you offered yourselves to become citizens of the United States, or assumed the relation of citizenship by taking part in the affairs of the country, you either actually or impliedly took upon yourselves the obligation that you would not only support the laws, but that you would at all times, when called upon, see to it that offenders against such laws should be made to suffer the penalty of their offending. When you were called upon to take your seats in that jury box, you responded as in duty you were bound to do, being citizens of the common

country, and in compliance with a conscious regard to the obligations resting upon you. Having thus responded to the call made upon you, and it being ascertained by actual examination of each of you by the law officers of the Government that you possessed the necessary qualifications entitling you to sit as a member of the grand inquest, you are required by the same code of laws emanating from the same supreme authority to take the oath already administered to you. That oath is not one prepared for any emergency supposed to exist only in this community. It is one in form and substance similar to oaths administered to grand jurors in all the States in the Union, and in the older governments where the system of inquiry into crimes is had through the agency of grand jurors. It is the result of long experience, and is so formulated as to place those who take it on the very highest plane of responsibility. Sitting there in that box, as you now do, sworn as you have been, your independence of action, so far as your individual predilections as to favor or affection are concerned, are gone. You are only the cold custodians of the law and judges whether or not that law has been violated. It is your solemn, sworn duty to see that the laws of the land are not violated, and in every instance, no matter who the person, or what his creed, where there has been a violation, to bring the offender to the bar of the legal tribunal for punishment. If or not the law is constitutional, it is in opposition to the religious tenets of any class of persons, you are not to inquire; that duty devolves upon another tribunal. Satisfy yourselves only that the law exists; that it has been violated, and by the person against whom the charge is made. Present such person in the form of an indictment, to the tribunal legally authorized to receive it, and be assured that your conscience will not hereafter trouble you. Above and beyond all else, remember that the government whose interests you are now doubly sworn to protect, is great, good, kind and beneficent, and that all its laws are made and enacted for the protection of each and every citizen, you and I, and all the rest, and not in a spirit of revenge and resentment. Governments, like all else human, are the result of experience. Advancement in civilization depends upon education and is the endeavor of refinement.

The old things of the past were well enough in their time; on them we build as we or they then understood. Now a broader base is required, and as time goes on this foundation will have to become more expansive. Then a few thought and planned, now the whole mass think and plan, and this combined thought, and their plans tend for general improvement of mankind, and thus it will go on until in reality *vox populi est vox dei*.

Gentlemen, your attention is called to the prevalence of illegal homicides in this district. It is appalling, and it is to be hoped you will take every step within your power to bring the guilty to punishment. Until recently our community has not been disgraced by red-handed mobs. But a short time since all law-abiding citizens were startled by two hangings of persons, without the interposition of the law, one in our own city and the other at Park City. No matter what might have been the causes leading to these acts, if all that has been reported in the public prints were but half true, the acts of those engaged in these two dastardly assassinations should send a thrill of horror through us. It is well known that two unfortunate men, whose lives were taken from them by the mob, were in custody of the law. It has been currently stated in the instance occurring in Salt Lake City, that the officers of the law in whose custody the man was, either aided in the act of the killing or were so inefficient in the discharge of their duty to protect him as to make them amenable for dereliction of duty. Whether this be so or not, it is your duty to inquire. If the officers are guilty, bring them to justice; if they are innocent, by all means say so. Justice to the people who placed these men in their official positions demands this at your hands, for if they be guilty their official powers should be taken from them and good men put in their places, who will do as they have sworn they will do. An officer of the law, whose duty it is to protect life and help to enforce the law, who will so far lose his head as to engage in the acts of a mob, or be inhumanly cruel, is not a fit man

for his place, and it is your duty, as I hope it will be your pride, if in your investigation there should be found one such, to present him by indictment. I trust for the sake of humanity, and for the reputation of the community, that the terrible reports may not be true.

It is brought to my attention that the killing at Park City was one of intense horror. I am informed that a party of men disguised at Park City, seized upon a locomotive engine and passenger car, and at the pointing of pistols, compelled the engineer and conductor to take them to Coalville, a distance of nearly twenty miles; that there by like means they intimidated the officers in charge of the jail in which was confined their victim, to open the door; that they entered the cell in which the man was imprisoned and after some resistance from him, placed the rope around his neck, dragged him to the cars, and again compelled their transportation back to Park City, where they hung their victim until he was dead. That these acts were all done in the dead hours of the night, and were the result of mature deliberation and forethought. Such conduct is utterly indefensible, and the actors in it have evinced a degree of inhumanity and barbarity incomprehensible to the law-abiding citizen. Whoever these persons are, and however numerous they may be, it is your duty to investigate carefully and judiciously into the circumstances, and you will be expected to do so. There is certainly no occasion in Utah for the interference of a mob with the administration of the law. The courts are open, laws are provided for the apprehension and conviction of persons charged with the crime of murder, and the officers whose duty it is to prosecute are able and efficient. In the instance now being considered, the alleged offender was in the hands of the law. If he was guilty, no doubt he would have been found so, and his punishment would have been effected. The mob that took him from that custody and deprived him, in the manner spoken of, or in any other manner of his life, are as guilty, as they in their cool deliberation thought their victim to be, and when they undertook in cold blood to perpetrate the taking of his life, and did so, they are as amenable to the law as they thought he was, and ought to be punished as he must have been, had he been found guilty under the law. The mere fact that there were a number of men engaged in the acts, offers no excuse. The crime under all the circumstances, because of the numbers engaged in it and the evident deliberation preceding the act, make it all the more heinous. If the will of such men is to be the law, and by their determination the guilt of a man is to be ascertained and his punishment fixed, what security have you or I, that we may not be the next to fall under ban? All praise be given to the wisdom of our form of government that such is not the case. Here as in all organized systems of government, the law is supreme, and the lowest in the steps of crime, the humblest in the walks of life, the rich and the poor are protected by it and are comparatively safe. I know it is often said the law is slow, and that the criminal often goes unwhipped of justice, but is that a reason why mobs frenzied or cool should not be punished? Far better be it that the law's delay should be spun out for years, than that a few self-constituted law-breakers should be the judges of who shall live or die.

I implore you, gentlemen, to give the circumstances of these two assassinations your fullest consideration, and in the might of your power delegated to you, as it has been by a people having an abiding confidence in your integrity, bring the guilty, whoever they may be, to the bar of justice to be there dealt with in the way provided by law, and so teach all who may have in their hearts a contempt for the law the danger of following such a purpose.

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(Continued.)

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