

CHARGE TO THE GRAND JURY.

JUDGE HUNTER EXHIBITS HIMSELF.

A VIOLENT ANTI-"MORMON" HARANGUE.

LAST Wednesday in the Third District Court after waiting till nearly noon for one of the Grand Jury, who had not arrived from Ogden, during which time the law calendar for the term was called over, Judge Hunter delivered the following charge to the Grand Jury specially selected and packed for the term. Lack of space forbids comment to-day, but our readers will mark the animus of the author and the vulgar and uncalled-for flings and insinuations against the "Mormons" and unjust and foolish flattery of the "Gentiles" which disfigure a document which should from its nature and object be strictly impartial and impersonal:

Gentlemen of the Grand Jury:

You have been selected in the manner provided by law for the purpose of making inquiry into all public offenses committed or triable within the Third Judicial District, of the Territory of Utah, the limits of which extend over the counties of Box Elder, Cache, Weber, Rich, Morgan, Davis, Salt Lake, Tooele and Summit.

The office and duty of the grand jury is varied, and extensive—upon it depends the peace and welfare of the citizens and the entire community. No other means is offered whereby criminals, other than those whose offenses are triable in justices' and police courts, can be brought before the bar of justice to receive such punishment as is meted out by the law for their crimes. Unless the grand jury is vigilant in the prosecution of the work prescribed to it, the whole body politic suffers, and crime stalks through the land emboldened, and almost fearless. In the nature of your organization, you are the prime conservators of the peace, throughout the judicial district over which your power extends. The security of every man, woman and child in the enjoyment of life and property depends upon you. Life may be taken, and property violently wrested from the possession of its legal owners, with impunity, and the courts of justice are powerless, if the grand jury fails to perform its duty.

Too strong language cannot be used, and too many repetitions of ideas, which serve to bring to your attention the importance of your position, cannot be made. It too often happens that individual grand jurors fail to appreciate the value of the duty devolved upon them. If each of you will take home to his own heart the fact that he is here assembled to protect his family, and that of his neighbor in all things which pertain to happiness, perhaps a keener appreciation of the duties imposed upon you may be felt, and it is in this light I beg of you to consider the subject.

In all such portions of the country wherein the powers of the grand jury are perfectly exercised, crime has no chance to find a harbor or a resting place. It is only in such parts where there is laxity that it can live. Let the criminal understand that no matter how high his position may be, or however surrounded he may be with wealth, or whatever may be his individual influence, his offenses against the laws of the country will be inquired into, that he will be made to suffer the consequences thereof, and it will not be long before peace and quiet will reign in your midst.

Nothing so debases a community as vice; accustomed to it, the whole people become infected by it, and it soon runs rampant. It is worse than a vile scourge, because it not only kills the body, but destroys the soul.

Governments are founded upon law. The due and proper enforcement of it is what perpetuates their existence, and renders the life of the citizen peaceful and enjoyable. Law is the rule of action controlling the citizen in his duty towards his government and his fellow man. In order to render the people subservient and obedient to the law, there must be a determination on the part of those who have in hand its enforcement, to compel obedience, and a reciprocal disposition on the part of the people to obey.

Vast numbers of men are prone to be evil doers. Some are actuated thereto by the wickedness of their own hearts, and in these later days many are impelled by fanaticism.

The Communist, who has been taught, or who has taught himself to believe, he has a right to what he conceives to be, and calls a surplus of your property, and takes it, violates the law which gives you the right to it, and which prohibits him from molesting the possession.

If his peculiar ideas were permitted to be carried out, it is not hard to infer what the result would be on the community; and there would be no difficulty in prognosticating how soon the social fabric would be torn down and violence and discord take its place.

In this country all our laws pertaining to crime are written. They are the result of mature deliberation, are founded upon what are deemed to be the principles of morality and are supposed to be for the general advancement of that portion of the human family resident within the territory wherein they are to be enforced.

It is unnecessary for me to enter into a discussion of the form of government under which we live, or to point out where the power lies to enact laws. Suffice it to say that the territorial limit of the United States is divided into what are called States and Territories. That as to those portions held as Territories, Congress has power to make laws for the government thereof.

With this power in Congress and the fact that there were Territories, it became necessary to enact certain laws.

In the discharge of this duty, and owing to the well known fact that there existed within that portion of the Territory of the United States called the Territory of Utah, a state of affairs in relation to the marital rights, which were repugnant to the spirit of our institutions, and which in all the States of the Union was regarded as a crime, Congress has seen fit to enact a law entitled "An act to punish and prevent the practice of polygamy in the Territories of the United States and other places," &c.

To this law I wish to draw your particular attention, and in its connection to the oath you and each of you have just now taken.

You and each of you have solemnly sworn that you will diligently inquire into, and true indictments make, of all public offenses against the people of this Territory committed or triable within this district of which you shall have legal evidence. That you will indict no person through malice, hatred or ill will, nor leave any unindicted through fear, favor or affection, or of any reward, or the promise or hope thereof; but in all your indictments you will state the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding.

You cannot help being impressed with the solemnity and weight of this oath—as well as with its scope—and it is my duty to tell you that it takes precedence over and above any other you may have taken under any other circumstances and surroundings—that in obeying its mandates and obligations you cannot interfere with any other oath you have heretofore imposed upon your consciences, either in the sight of God or man. Your duties under it are plain and unmistakable, and in a virtue of it you are clothed with powers as strong as the government itself. Having thus taken this oath and assumed the duties, it is your bounden duty to see that all the laws prohibiting crime are enforced, not only those passed by the Territorial legislature, (which you are instructed is only a legislature with power delegated to it by Congress) but those passed by the Congress of the United States.

If a band of horse thieves or house breakers existed anywhere within the Third District, whose members were known to you, and who were known to be horse thieves and house breakers, these being public offenses against the people of this Territory, it would be your duty to inquire into the offenses and true indictments make against such persons. It is your duty to do so, because these are offenses against the law of the State and government of which you in your relation of grand jurors and citizens are a part. The infraction of any other law imposes the same duty upon you.

You are no respecter of persons. Justice is represented as being blindfolded, and you are supposed to be blind as to individual. To speak figuratively, you will sit with closed eyes, listening with open ears to the evidence brought before you, and only determining if it is legal—that the fact or body of the crime is proven. You must not indict through malice, hatred or ill will, nor will you leave any one unindicted through fear, favor or affection.

The good order and wellbeing of society as it now exists throughout the civilized world, is based upon the opinions, laws and customs which have been shown by experience gained in the interval since governments began to be for the best interests of man. Each governmental power now existing, or which ever has existed, or which may hereafter exist, is the judge of what its laws shall be. And in all governments, especially such as this of ours, where the will of the people is expressed through the acts of Congress, such laws are all-powerful, they are supreme. It will not do to permit bodies of individuals, such for instance, as the communists heretofore referred to, or a religious sect, having for its teaching the violation of a statute, to override the law, or put it at defiance. The powers that be must be obeyed, and if it does not consort with the peculiar views of a particular religious body to obey the laws of this country, it must either cease to exist, so far as its teachings violate the laws of the land, or take its departure, the one it may do at its pleasure, the other must be at the pleasure of the government.

I have thus said what I have because I am now addressing a grand jury taken from the body of a people in whose midst all the world knows, exists the crime of polygamy, against which, and to suppress which, the act of Congress referred to has been enacted. Polygamy is a crime, made so in the eyes of nearly all the nations of the earth, and certainly so in all the Christian nations, and absolutely and positively so by the Congress of the United States, and you gentlemen, acting under the terrible solemnity of your oaths are called upon to suppress it. Without you indict parties engaged in this crime this Court cannot convict.

You ought further to understand that this Act of Congress was not passed simply to grace the statute books, that future generations might read it—but that it was enacted in good faith—that there is a determination on the part of the government to enforce it. The peace of the land, the perpetuity of our free institutions—the ennobling of posterity and the present generation, and the demands of civilization imperatively require that it shall be done.

The government of the United States, representing as it does the advance in civilization, and whose moral influence is felt the world over, and polygamy cannot exist within the same limits, and it is more than apparent, it will not be the government that will have to succumb. It will not do for a small portion of the population, representing not more than perhaps a hundred thousand, to dictate what forty-five millions shall do. The law dictated by the people must stand, and be enforced and you are expected to aid therein.

Among you there can be no doubt, there is knowledge of the presence of the crime, and you must take notice of the fact.

There is no purpose on the part of the government, or its representatives, to interfere with the enjoyment of religious liberty. That right is accorded to all, but in the exercise of that religious liberty, there must be no violation of any of the criminal laws. Not one of you would for an instant doubt that if there existed within the confines of the United States, a religious sect which believed in the doctrine of human sacrifice, and carried that belief into practice, by taking human life, that the act would be murder, and that it would be right to convict its perpetrators and make them to suffer the penalty of the law. If the law was that all persons who religiously believed in the right to kill, and who did kill, should go unpunished, who would be punished? The same course of reasoning can be applied to all other crimes, and if such were the law, what would be the moral status of the human race.

In olden times it is said men were permitted to have a plurality of wives, if so perhaps there then was

no law prohibiting it. With that question, however, we in this day have nothing to do. We know our laws do not authorize the act, but that on the contrary prohibit it and make the act criminal. To our law we look, and not to a law that is said to have existed nobody knows how many years ago, nor to any new fangled pretended prophecy, made to subserve the bestial passions of bad men. However much such persons may seek to shield themselves behind their belief in plural marriages, it has nevertheless been decided by the people of the United States that such plural marriage is a crime, if at the time it is entered into, the man has another wife living from whom he has not been divorced according to law. We have heard here in this court room, within the last few hours, men state on their oaths, that they religiously believe in the doctrine of polygamy, and that inasmuch as it was a divine right, they would not be committing an offense against God if they took a plurality of wives. Such sentiments are obnoxious to the moral sense of more than forty five millions of the people of this country, and in the face of their declared will, ought not to be, and will not be tolerated.

It is unnecessary for me to depict to you what would be the result in times to come upon the whole body politic of our common country, if these pernicious doctrines were permitted to prevail. Every honest man's sense of decency can portray the consequences.

In this community we are frequently told, as a reason I suppose for exciting our sympathy, that the people who believe in this polygamous heresy, came to this country when it was a barren waste, and have by their industry, made it to "blossom as the rose." That all this is due to the benign influences and teachings of the dominant Church, one of whose foundation stones, if not the very key of the arch, is polygamy. But is this true? That these people came out here early in the history of the country is true, but they were soon followed by those indomitable men whose kind have always been present among the advance guard in the progress to the west. The discovery of gold in California and a thousand other attendant and surrounding circumstances, helped to grow the rose that is now said to blossom so profusely.

The gentile element, as the unbelievers in the teachings of Mormonism are called, is here filled with all that spirit of enterprise which has been exhibited by the American people ever since we have been a nation, and to it more than anything else is due the prosperous condition of affairs.

To this spirit of enterprise these grand old mountains are not only yielding up their hidden treasure but have given up their beautiful valleys and cañons to the locomotive, with its trains of cars, laden with the products of the east and west, and bringing us in pleasant communion with people from all parts of the earth.

Do you, gentlemen, think it was in the interest of polygamy that these vast changes in Zion have taken place? Do you not rather see in them the purpose of the Supreme Ruler to teach these people their error?

I feel it is also my duty to say to you that there stands upon the statute books of this Territory, a law defining what is libel, and prescribing punishment therefor. I want particularly to draw your attention to it.

A man's or woman's reputation is worth more to him or her than all else, and anyone who untruthfully assails that reputation is guilty of one of the highest offenses known to man, besides being a criminal in the eyes of the law. It is your duty to protect the citizen in his reputation, and against the libelous attacks of evil parties, or give him the means thereto. I trust in your deliberations, if any cases are presented to you, that you will see that all traducers are brought to the bar of justice, to be dealt with according to law.

It is made your duty by the law to enquire into the cause of every person imprisoned within this district, on a criminal charge, and not indicted; into the condition and management of the public prisons within this district, and into the willful corrupt misconduct in office of public officers of every description within this district and you are entitled to free access at all reason-

able times to the public prisons and to the examination without charge of all public records within this district.

I also refer you to chapter ii, on page 87 of the Laws of Utah for 1878, for further specific instructions as to your duties.

You are also instructed that you do not sit as tryers of the defendant or party charged with any offence. You ought to find an indictment when all the evidence before you, taken together, if unexplained or uncontradicted, would in your judgment warrant a conviction by a trial jury.

The theory being that as the defendant does not necessarily appear before you, you only hear the direct charges, the contradiction or explanation being left for the trial jury.

In your deliberations you will have the assistance of the District Attorney and his assistants, who will aid you by their advice and experience in the law.

You are an independent body. You can adjourn from day to day, and at and to such times as your convenience may render necessary, but the court and people will expect that you will expedite your business as rapidly as consistent with the duties imposed upon you.

When you have finished your labors and made report thereof, you will be finally discharged by the Court.

BY TELEGRAPH.

AMERICAN.

Washington, 1.—Hon. S. W. Downey, delegate to Congress from Wyoming Territory, telegraphed Postmaster General Key to-day, stating that First Assistant Postmaster General Tyner and party, were traveling through the Ute Indian country and were in danger of being attacked by the hostiles.

Cheyenne, 1.—General Merritt, who will command the expedition for the relief of the Thornburgh command, left here this afternoon on a special train. Accompanying him were companies A, B, I and M, of the Fifth Cavalry, and company I, of the Fourth Infantry. In addition to these there will be five companies of cavalry from other posts in the department, and four companies of infantry, the greater number of which will be at Rawlins before daylight in the morning. From the Cheyenne depot a full equipment of wagon transportation, as well as a large pack train, departed to-night.

Rawlins, Wyo., Oct. 9.—The following particulars were obtained from the courier who brought the dispatches from Capt. Payne, after the fight. Major Thornburgh's expedition against the hostile Ute Indians, when within 25 miles of the agency, halted on the night of the 29th inst., and the Major sent Grafton Lowry, one of his scouts to the agency to communicate with agent Meeker and to see how matters stood. He found the utmost excitement and confusion prevailing. The Indians had sent all their old men, women and children south towards Blue River. The warriors were decorated and painted in their usual war style, and they were about to murder Mr. Meeker, but Mr. Lowry prevailed on them not to commit the deed. Mr. Meeker told Mr. Lowry that he attempted to leave the agency with his family, but was prevented by the Indians, that they (the Indians) signified their readiness for war, and seemed anxious for the approach of the troops. They then made another move to kill Meeker and fire the buildings, but were a second time prevailed upon to desist. Lowry now attempted to return to the command, but was informed that he must remain, but after giving them a number of assurances of his peaceable mission, he was allowed to depart, but was accompanied by about 30 warriors, who rode with him a number of miles and then left him. Lowry arrived at the command, then near Milk Creek, on the evening of the 28th, and gave Major Thornburgh the above information.

The next morning, Sept. 29th, the command advanced under the guidance of Joe Rankin, who is well acquainted with the country. About 9 o'clock a. m., Rankin discovered fresh Indian signs, and having arrived at a cañon through which the road passed, and which would afford an excellent opportunity for ambush, he led the command around over the hill over an old trail well known to him. By