

## PROCEEDINGS OF THE THIRD DISTRICT COURT.

The annual session of the Third Judicial District Court for this Territory was commenced on Monday, the 9th inst., at the Court House in this city at 11 a.m. Present, his Honor Chief Justice Kinney, Presiding; Patrick Lynch, Esq., Clerk; John D. T. McAllister, Marshal; Henry Heath and William Lynch, Deputies; Hiram B. Clemons and James D. Ross, Bailiffs; Aurelius Miner, William I. Appleby and James Ferguson, Esqs., Members of the Bar.

The venire for the grand jury was returned by the Marshal with the following panel annexed:

H. S. Beattie, Lorenzo Pettit, Joseph Busby, John S. Davis, Thomas Jenkins, Isaac M. Stewart, George W. Price, A. L. Fullmer, D. T. Le Baron, Martin Lenzi, Daniel Cahoon, R. R. Hopkins, David Carson, J. F. Snelgrove, Edward Snelgrove, Joshua Parker, W. A. McMaster, Rufus Ferbusch, Jr., Edward Partridge, Daniel Carter, W. H. Lee, James Gillespie, W. H. H. Sagers and Jacob F. Abbott, each of whom, with the exception of Edward Partridge and W. H. H. Sagers, answered to their names on being called.

John S. Davis and Edward Snelgrove were excused by the court, as they were of foreign birth and had not been admitted to citizenship, although they had declared their intentions to become citizens of the United States. Satisfactory representation was made that W. H. H. Sagers was sick and unable to attend, upon which the court directed that his name be erased from the panel. A citation was ordered to be issued against Edward Partridge; he, however, soon after appeared, but being unable to give a satisfactory reason for absence, was fined five dollars for contempt. Samuel Malin, Edwin Pettit, Horace Gibbs and Andrew Cunningham were summoned by the Marshal to fill up the panel. The court appointed R. R. Hopkins, Esq., Foreman, to whom first the usual oath was administered, and then to the other members of the jury by the Clerk. The Judge then charged the grand jurors, in substance as follows:

## CHARGE OF HIS HONOR TO THE GRAND JURY.

You have been selected, summoned and sworn, and are now impaneled as Grand Jurors for the Third Judicial District court of the Territory of Utah; including the counties of Great Salt Lake, Tooele, Davis, Weber, Box Elder, Cache, Morgan, Summit and Green River. You have jurisdiction over this vast district of territory, and are the representatives of the morals and good behavior of the whole community scattered throughout that extent of country. Your duties are important. None can be presented to the court for trial, unless presented by indictment, and that indictment must be found by a Grand Jury. Men cannot be deprived of their life or liberty, unless so deprived by a jury of their countrymen. You see, then, gentlemen, how much is required of you, and how great are the powers placed in your hands.

It matters not to you, in the discharge of your duties, that you are not remunerated for your services; you are obligated to sift out crime wherever it can be found, and to bring the criminals to justice.

Most important it is, for the good order and well-being of society, that you should faithfully discharge the obligations now placed upon you. There must be no hurry in your deliberations, but they must be pursued with the utmost diligence. To the strictest scrutiny must the matters be brought that come before you, and you must leave nothing undone in your efforts to bring crime to light, and criminals to judgment.

It is not necessary that you should be convinced of the actual commission of crime and of the positive guilt of an individual; it is only necessary for you to be convinced that the person charged ought to be brought to trial, and that there is a probability of guilt. If you are satisfied that evidence exists to justify a Grand Jury in finding an indictment, then it is your duty upon this prima facie evidence to find such indictment.

Gentlemen, you are under a solemn oath binding upon you to conscientiously and diligently discharge the duties of Grand Jurors. There must be no carelessness nor haste in your judgment, for there is before you no unimportant deliberations. You are also not only sworn to diligence, but to a true presentment of the case. The indictments that you find must rest upon belief, but upon testimony. You are required to investigate all matters of a criminal character that may come to your knowledge, not only of the present, but also of the past, and especially if any murders have been committed within the District, no matter how long ago, for cases of murder cannot outlive the jurisdiction of the law. You are not to be confined to those matters which shall be given you in charge by the court. If others come before you, it is your business to give them a strict investigation. In no other way can we preserve the morals of the territory, prevent crime and bring criminals to justice. You are the custodians of the morals and good order of the community, and are bound to preserve the jurisdiction of the law.

You have sworn as an impaneled body of Grand Jurors to do this.

You are not permitted to divulge any of the secrets of the jury-room, for if it was known that an indictment had been found against any person not in custody, an opportunity would be given for such to escape.

You have also sworn that no envy, malice, nor private feeling shall influence you in your investigations. I particularly charge you to be careful on this point. Divest your minds of all envy, hatred, or malice, if any exists, and find your indictments strictly upon the evidence presented. Leave no duty committed to you unperformed, neither for hope nor fear, nor for favor or expectation of gain.

And should any individual of your acquaintance or with whom you have any friendly relations be charged with any crime or violation of the law, you are also expected to divest yourself of all affection and present him in your indictments as though he was an entire stranger. All cases, as they come to your knowledge, must be brought to a strict examination according to the evidence adduced. As custodians of the public good, it is your duty both to your country and Territory, to bring crime to light and to punish criminals.

His Honor then called the attention of the Grand Jury to the unfortunate circumstance which transpired in Davis county last summer, the commencement of which was a palpable violation of the Statutes of the Territory, then an armed resistance to the officers sent to execute certain writs issued by the Court, by a company of men, at the head of which was one Joseph Morris, resulting in the death of the said Morris, John Banks and several others of the gang, and the capture of the entire party by the officers, assisted by the posse which was called out to aid them in serving the writs, in doing which two of the posse were killed. He read to the jury the several affidavits upon which the writs were issued by him, and gave a brief but comprehensive history of the proceedings in the case, from the time of issuing the first writ of Habeas Corpus, directed to Morris, Cook, Banks and Klemgird, requiring them to bring before him certain individuals by them unlawfully held in confinement, as alleged, till the return of the last writs, which were issued for the arrest of the insurgents, duly served by arresting all the persons named therein, excepting Morris and Banks, who had been killed while resisting the service of the said writs, and of about one hundred others, who were found aiding and abetting the said parties in resisting the officers in the discharge of their duties as ministers of the law. He then referred to the examination of the prisoners who were thus brought before him, two of whom were committed for murder, and some ninety others were required to enter into recognizance for their appearance at the present term of the court, to answer to the law for their violation of its provisions in opposing the officers in the execution of legal process. He charged the jury clearly and distinctly, what their duty would be in the premises, should the evidence presented to them be such as was given on the preliminary examination.

His Honor next referred to the case of Amelia Camp, charged by the affidavit of her husband, Williams Camp, of the crime of murder, in killing her infant child. The accused was in custody, the evidence of the killing was undisputable, and the jury could not do otherwise than to find a bill of indictment against her, and then a traverse jury would try and determine the case, which a grand jury could not do.

The Court then reviewed the case of Joseph Holliday, who was committed a few weeks since, for killing one S. C. Greenleaf in Great Salt Lake City, and a similar charge was given to the Jury in relation thereto, as in the other cases of murder to which their attention had been called.

In concluding his charge and instructions to the Jury, his Honor enjoined them again to be diligent and faithful in their inquiries into all violations of the Statutes of the Territory within the Third Judicial District, that criminals might be brought to justice, the law honored and its supremacy maintained.

After the grand jury had retired to enter upon the discharge of their duties, the Clerk, by direction of the Court, proceeded to call the names of the persons who had been summoned to serve as petit jurors, as follows:

James Rawlins, E. W. Davis, Ammi Jackson, John Neff, Jr., C. H. Bassett, Ebenezer Brown, Julian Moses, John Scott, T. O. Angel, Milo Andrus, S. W. Alley, D. P. Kimball, O. F. Attwood, Washington Lemon, Lyman Leonard, Peter Rank, Allen Burke,

M. D. Hammond, Truman Leonard, Eli Lee, D. M. Burbank and O. P. Bates. The only absentees were D. P. Kimball and Eli Lee, against the former of which a citation was ordered to be issued; the latter being sick, his name was stricken from the list. E. W. Davis, a foreigner, was set aside, and for good and sufficient reasons—made known to the Court—Ebenezer Brown, Julian Moses, Lyman Leonard and Washington Lemon were excused, and James Curry, Theodore Curtis, A. Rose, J. W. Fiel, Joseph B. Elder and Preston Free were summoned to make the number complete.

On motion of Mr. Miner, H. W. Isaacson, Esq., late of New York, and on motion of Mr. Ferguson, Isaac L. Gibbs, Esq., late of Nebraska, were admitted to the bar as attorneys and counselors at law, and solicitors in chancery, to each of whom the court administered the usual oath.

After giving some directions or instructions to the witnesses and others, held under recognizance relative to their attendance upon the court from day to day until they should be legally discharged from such attendance, the court adjourned till ten a.m. on Tuesday.

The court met on Tuesday, the 10th, at 10 a.m., pursuant to adjournment.

The case of Beach, Eddy & Co. vs. Brown & Miller, in assumpsit, was called. Mr. Miner appeared for the plaintiffs, and Mr. Appleby for the defendants.

On a motion to admit Mr. Brown, one of the defendants, to testify in the case, in the absence of all disinterested witnesses, the court ruled that the statute did not make provision for any such testimony; it only provided that an interested party might be required to testify. A verdict was rendered for the plaintiffs in the sum of \$2740 17.

In the case of Gilbert & Gerrish vs. Dyer Bros. & Co. and John M. Brown, Mr. Appleby filed a demurrer, which was argued by Messrs. Miner and Appleby. The court sustained the demurrer, and permission was given to withdraw and amend complaint,—at the same time intimating that if the plaintiff adopted this course, the defence would have the right to a continuance until the next term of court.

In the case of the Administrator of the Estate of A. W. Babbitt vs. William Hennefer, the court ordered judgment entered by default, in the sum of — dollars.

In the case of Joshua K. Whitney vs. Jonathan Moreton, the jury gave a verdict in favor of plaintiff for \$33 60.

Gen. Bela M. Hughes, of Kansas, was admitted to practise in the courts of this Territory, and William S. Muir was made a citizen of the United States.

The court adjourned till 10 a.m. to-day.

## DOINGS OF CONGRESS.

The Senate, on Tuesday the 10th, passed the bill for reorganizing the Post Office Department. The National Currency bill was taken up and discussed, but no vote was taken, excepting on proposed amendments.

In the House, on the 10th, the report of the committee on elections, in favor of admitting Messrs. Flanders and Hahn, as Representatives from Louisiana was the principal matter under consideration, but there was no vote taken.

In the Senate, on Wednesday the 10th, the bill for the removal of the Winnebago Indians was taken up and passed. The bill to increase the number of Major and Brigadier-Generals in the volunteer service, making the whole number of Major-Generals seventy, and of Brigadier-Generals, two hundred and seventy, was taken up and debated at considerable length.

In the House on the 11th, Mr. Ashby, from the Committee on Territories, reported bills authorizing the Territories of Nevada and Colorado to form constitutions preliminary to their admission into the Union as States. A bill was passed to incorporate the National Association for the Relief of Destitute colored women and children, and a bill authorizing the Independent Line of Telegraph, between Portland and Washington, to construct and locate their line in the District of Columbia.

In the Senate, on Thursday the 11th, Mr. Wilmot presented the joint resolutions of the Legislature of Pennsylvania, requesting the Senators of that State to vote for the repeal of the duty on printing paper.

The bill in relation to the currency was

passed by a vote of 28 to 31. The bill to prevent and punish frauds on the revenue was taken up, amended and passed; also, the bill to fix the time of holding courts in Wisconsin and Iowa. A resolution was adopted requesting the President to communicate to the Senate any information he might have relative to the use of negroes by the French army in Mexico.

In the House on the 12th, the bill to provide for the temporary government of the Territory of Montana was passed by a vote of 86 to 40. The fortification bill was taken up and passed. The House concurred in the Senate's amendments to the bill for the relief of the citizens of Minnesota, who were sufferers by the Indians last fall.

In the Senate, on the 13th, the bill for the support of the government was taken up. An amendment was adopted making the interest on notes authorized by the bill, and certificates of indebtedness hereafter issued, payable in lawful money instead of coin; also, an amendment reducing the amount of notes to be issued to \$150,000,000 instead of \$300,000,000. The bill was finally passed by a vote of 32 to 4—Carlisle, Powell, Richardson and Wall voting nay.

In the House, on the 13th, the principal part of the time was taken up in the consideration of private bills.

In the Senate, on Saturday the 14th, Mr. Harlan called up the bill to establish the gauge of the Pacific railroad, providing that the gauge shall be four feet eight and a half inches. A somewhat lengthy discussion arose and the bill was postponed. The bill authorizing letters of marque and reprisal was also under consideration, and Mr. Grimes offered a substitute, authorizing the President, in all domestic and foreign wars, to issue letters of marque, as he deems fit, and make all needful rules and regulations. The bill was laid over and the Senate went into executive session.

In the House, on the 14th, much time was spent in considering reports on contested election cases. The reports adverse to those claiming seats from the second congressional district of Virginia; to those claiming to be elected in North Carolina under military proclamations of General Vee were adopted and the claim of Mr. Byington, of Iowa, contesting the seat of Mr. Vandever, was rejected.

The Senate, on Monday, the 16th, had under consideration the conscription bill, which had been made the special order of the day. An amendment exempting members of Congress from the provisions of the bill was rejected by a vote of thirteen to twenty-four. An amendment was adopted on motion of Mr. Wilson, to make the first class include those between the ages of twenty and thirty-five instead of eighteen and thirty-five. Mr. Sumner offered a resolution to exempt all ministers of the gospel. In the debate which followed, Mr. McDougal said he hoped the Methodist clergy would not be exempted, as they were a fighting clergy. Mr. Henderson said he would have the law, such that, in case of another war like this, ministers should have no inducement to advocate war. In Missouri ministers in many cases had preached treason; and he believed if Mr. Wilson would look back, he would find that treason had been preached in his State, and preachers had to a great degree been instrumental in bringing about this war. If he had his way he would put them all in the field and make them fight the battles they had done so much to inaugurate. The amendment was rejected, and at twelve o'clock at night the bill was passed.

In the House on the 16th, the Indian appropriation bill and the case of those claiming seats from Louisiana were under consideration, but no decision was made in relation to either of those matters.

In the Senate, on Tuesday, the 17th, the bill to prevent members of Congress and officers and agents of the government from taking consideration for procuring contracts, places, etc., was passed. The bill authorizing the President to issue letters of marque and reprisal was taken up and its passage urged by Messrs. Grimes and McDougal, and opposed by Messrs. Sumner, Cotham, Dixon and Davis. It was finally passed by a vote of nine to seven.

In the House, on the 17th, the Indiana appropriation bill was passed, and the New Orleans election case was decided by admitting the members elect to seats.