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WEEKLY.

TRUTH AND LIBERTY.

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WHO'S TO BLAME?

On Monday, in the Third District Court, one of the jurors summoned to serve on the Grand Jury for the September term, refused service on the ground that he had never received payment of his fees as Grand Juror at the fall term of 1874, when he sat for 33 days on Territorial business. He stated that he had applied to the Territorial officers for payment, but his certificate had never been honored, and while he was willing to serve on United States business, he would not serve on Territorial business until the amount due to him was paid. The Court adjudged the juror in contempt, but held the matter under advisement, for the present inflicting no penalty.

As advantage is being and will be taken of this occurrence to misrepresent the affairs of this Territory and its relation to the Courts and the Government, we will give the facts which relate to the matter, and some explanations.

There was no trouble about jurors fees in criminal cases until Congress undertook to interfere with the internal affairs of this Territory, by depriving us of certain officers appointed under laws framed in accordance with the Organic Act. The so-called Poland Bill abolished the offices of Territorial Marshal and Attorney General, and placed the duties assigned to them by our local statutes, upon the United States Marshal and District Attorney. At the same time, that singular piece of special legislation provided that, "the costs and expenses of all prosecutions for offenses against any law of the Territorial Legislature shall be paid out of the treasury of the Territory." This was an interference with our local finances, unwarranted *by any necessity and* unauthorized by the spirit or letter of the Constitution. Congress has no right to say how the money of the people of this Territory should be used. The Territorial Treasury is not under the control of Congress nor subject to any of its laws. The Legislature of the Territory, representing the people, has alone the right to direct what shall be done with Territorial money.

Previons to the enactment of the Poland Bill, the fees of jurors were paid by the county courts, as provided in an Act approved January 21, 1859. And the Legislature, in passing the Fee Bill, Feb. 20, 1874, made the following provision:

"Jurors shall be paid out of the county treasury of the county wherein they reside, except when serving in civil cases, and it shall be the duty of the clerk of the district court, at the close of each term of said court, to make out and give to each juror a certificate certifying the number of days' attendance of, the number of miles traveled, and amount of compensation due to said juror in criminal cases, which certificate upon being presented to the county court of the county from which said juror was summoned, shall entitle him to be allowed and paid by said county." (Compiled Laws of Utah, p. 686.)

The "Poland bill," requiring jurors to be paid out of the Territorial treasury, was approved in the following June, and our Legislature could not meet again until 1876. Therefore no provision remained for the payment of jurors in 1874. The juror who objected to serving yesterday sat on the Grand Jury for the fall term of 1874, and received his certificate. The counties generally honored the certificates issued under the provisions of the Territorial statute quoted above, and paid the jurors' fees. We do not know of any exception to this but one, that is, Salt Lake County. We know that several of the counties paid the jurors, and believe that most, if not all of them did, with this exception.

We presume that the Salt Lake County authorities took the ground that the Act of Congress superseded the Territorial statute, and that therefore they had no right to pay the money. But the Territorial Auditor clearly had no power to issue any warrant for the payment of these fees, as no action had been taken by the Legislature authorizing him so to do, neither could be, seeing that it could not convene for nearly two years after the stupid act of Congress was approved.

At the session of 1876, the Legislature made an appropriation of $22,000 for the years 1876 and 1877, $11,000 for each year, for the payment of jurors and witnesses fees in criminal cases arising under the laws of the Territory. This was as large an appropriation as the limited revenue of the Territory could bear, a bill designed for the better regulation and collection of revenue having been vetoed by the Governor.

Now it should be understood that the Territory was deprived of its Marshal, who should have had the disbursing of the funds for jurors and witnesses fees, and whatever money was appropriated had to be handled by the United States Marshal, an officer of the Government, not an officer of the Territory, a person under no bonds nor obligation to the Territory, for the faithful performance of his duties. The Legislature, therefore, wisely held in check the expenditure of the people's money by an irresponsible person, and would doubtless have been justified if it had withheld any appropriation whatever to be disbursed in any such way. But it was thought best to make the appropriation we have named rather than to make further complications.

Now the juror who refused to serve has no real ground of grievance against the Territorial authorities. The difficulty originated with the Poland bill, which the "ring" that he supported pushed so strenously and rejoiced over so much at its passage. He has no claim on the Territory. We think, however, that it should have been paid by the county, with other similar certified demands. A juror should be remunerated for his services, whether in civil or in criminal cases. If the legislature had been allowed to act in its legitimate sphere, untrammeled by semile Congressional enactments and the one man gubernatorial veto power, jurors and witnesses in civil as well as criminal cases would be provided for. A bill was framed at the last session of the Legislature providing for an advance sum for fees of jurors and witnesses in every civil case when filed. But the Governor vetoed the bill, so there is no reliable provision for men who are brought from their homes and compelled to spend much time at considerable expense on civil trials.

This condition of affairs is lamentable, but the responsibility for the trouble lies at the doors of those who are all the time urging Congress to hamper, afflict and annoy this Territory by enactments which are unsuited to the circumstances of the people and contrary to the genius of American institutions. Put the blame where it justly belongs.

DISTRIBUTION OF SCHOOL MONEYS.

We have received several inquiries in regard to the disbursement of school moneys under the present statutes. Condensed, they amount to this: Are the trustees required to pay the sums entrusted to them, according to the number of scholars in attendance, or according to the number of children of school age in attendance?

We think the law is very clear on this subject. Our legislators evidently desired to distribute the funds arising from the property tax of three mills on the dollar, in the most equitable manner possible. They therefore provided that it should be paid to the trustees by the county treasurers, on the orders of the county superintendents, according to the school population of each district; that is, the number of children in each district between the ages of six and sixteen years. This divides the money up into district portions.

But the trustees are required to use this money in paying school teachers, according to the average daily attendance of pupils. Nothing is said here about the age of those pupils. The first provision is equitable to the districts, the second is equitable to the teachers and the scholars or their parents.

There is no difficulty about the matter when the plain wording of the statute is followed, without attempting to construe it. The county distribution is according to the number of children of school age in the respective districts; the district distribution is according to the number of pupils in attendance. This applies not only to the money raised under the new revenue law, but also to the money appropriated for school purposes, from the Territorial Treasury, previous to the passage of the new revenue law.

THE POLICY OF THE SWORD.

"Polygamy is a crime, and here is a glaring instanee of its commission so susceptible of proof that if the authorities fail to convict the offender, decent people elsewhere will be forced to the conclusion that the sword is the only thing that can correct the evil."

The above is clipped from a leader in the Sacramento *Record-Union*, and embodies a sentiment which has recently found expression in other papers. The "glaring instance" referred to is the alleged marrying by a "Mormon" of three women at one time. This is declared to be peculiarly "susceptible of proof," and the conclusion is reached that in case the law fails to convict, the sword should be invoked.

We are here reminded of the saying of the ringleaders of the mob who killed the Prophet Joseph and the Patriarch Hyrum. The law had been brought into requisition time and time again without avail. There was nothing to be proven against these men. Then the word went forth, "The law cannot touch them, but powder and ball shall." This is the cry of the murderers of the martyrs in all ages. "I find no fault with this man," says the living voice of the law. "Away with him, crucify him, crucify him," howl the representatives of passion, disorder and bloodshed.

Now, what is the immediate cause of this recent outburst of spasmodic virtue? The *Record Union* asserts that the proof is clear that a man has married three women at once, and this statement has been repeated throughout the country. The fact is that there has been no proof whatever adduced, up to the present time, that such a marriage has taken place. The examination before the Commissioner developed the fact that one woman had been married to this man, and some of the evidence went to show a probability of his having married another woman on the same day. It was not even alleged that he had married a third. Where then is this case which is so very "susceptible of proof?" We venture to assert that in such hearsay and conjecture as were offered in testimony before the Commissioner, no jury on earth, unless packed to convict, would bring in a verdict against the accused.

But waving all this, it is perfectly true that the Mormons believe in having a plurality of wives, and as President Taylor testified in court, they declare that they know it is right and in accordance with the revelations and commandments of Almighty God. We have heard of more than one case in which two young women formed an abiding attachment for the same man, and in which the object of that affection, instead of deceiving and discarding either or both, as is not at all infrequent in civilized Christendom, married them both, and thus made them happy and contented wives and mothers.

Custom apart, what is there so very dreadful about all this? The same people who affect holy horror at such a plural marriage, will treat as sacred the Scriptural account of the family relations of Jacob with Rachael and Leah. And the same parsons who denounce the "Mormons" and call for the knife to cut out the "Mormon" excrescence, will read in nasal tones and with the peculiarly hypocritical twang of their trade, the Biblical tribute to the four wives of the patriarch, "the holy women of old," of whom it is said in praise, "these did build the house of Israel," and will dilate in terms of pious admiration on the beauty of that glorious city whose gates are of pearl, and on which are inscribed the names of the twelve sons of these four women who were the wives of the same man.

True these Bibical marriages were solemnized in the days of antiquity. But why should distance—or time—lend such enchantment to the view? "Polygamy," says the *Record-Union*, "is a crime." Was it a crime in the days of the patriarchs who held communion with God and converse with the angels? If not, it is no crime now. It is made an offense against modern law, but is not a crime in itself. Constructively it may be so regarded, but actually it cannot be demonstrated as such. Why then should the sword be invoked for its extirpation? If it is only a crime made so by law, why not leave its punishment to the machinery of the law? But the advocates of the sword will say, "we only call for violence when the law fails." Just so. Then we ask, will you demand the blood of every accused murderer, when the law fails to convict? Will you call for a mob to assail or banish an acquitted defendant accused of theft? Will you advocate the destruction of an editor, and his press, who has been charged with libel but not proven guilty.

It really seems as though editors as well as clergymen lose their common sense and their common humanity when they touch upon this Mormon question that troubles them so much. They seize with avidity upon every rumor or telegraphic falsehood, no matter how inconsistent it may be, and deem the unsupported report proof as strong as holy writ. Then they denounce the supposed guilty persons and all others who belong to the same faith. Finally they call for the terrors of the law, proof or no proof, and this failing they want the dogs of war let loose.

Shame on such instructors of the people! Out upon such champions of "advanced thought!" They are only fit to have lived in the days when witches were thrown into a horse pond to sink and die if innocent, and if guilty—"susceptible of proof" by floating—to be hauled out and burned at the stake. They go farther than the witch-burners and advance more execrable sentiments and still denser logic, in this fashion. "One man is guilty of marrying three wives; he is only accused of marrying two, but no matter, his case is susceptible of proof; therefore punish him with the law. But if you can't prove him guilty, draw the sword and destroy the people who believe it is right and proper for a man to have more wives than one at once."

Is it not time to pursue a different policy towards these presumed misguided "Mormons?" Why not try and convert them? The sword is a poor argument against conviction. It never did succeed in any parallel case It will not prevail in this. Here are wives and sons and daughters and grandchildren, with their multifarious family relations—forming the very warp and woof of society, in a community bound together by the ties of faith as well as matrimonial connections. These bonds are sacred to us. You cannot sever them with the sword. You cannot legislate successfully against a creed. You cannot stamp out the fires of religious fervor with violence. And when you contemplate the role of the savage instead of the part of a wise, just and prudent brother, remember that One mightier than thou has declared, "He that taketh up the sword, shall perish by the sword."

A FALLACY EXPLODED.

Col. Mallery, of the United States army, has been making some pretty thorough investigations into Indian affairs. He has discovered that among the many errors into which the Government has fallen in relation to the red men—who, by the by, he shows are not red, but brown—is the common mistake in regard to the numbers and decadence of the savages.

It appears from his report, that in spite of wars among their own tribes, the ravages of disease, the reservation and starvation policy of their white conquerors, and the slaughter of squaws and papooses as well as braves by "civilized" soldiers, the Indians are slightly increasing their numbers, instead of melting away before the advance of the "superior race." Tribes which were thought to be extinct, still exist in numbers but a little less than their total before they were supposed to have passed away, and others imagined to have been gradually wasting away for years, are numerically stronger than before.

The Seminoles, who were said to number 3,899 in the year 1822, were reduced by the arms of the United States to 1,500 in 1835. It cost thirty millions to clean them out, but since then they have more than doubled their number. The Iroquis numbered 11,650 in 1763. They now count up 13,668. Colonel Mallery further shows that the Sioux have doubled their numbers in twenty nine years, and quadrupled them in one hundred and forty years. Also that during the last four years an actual count of nearly one hundred tribes comprising a population of 100,000, proves the excess of births over deaths has varied *from* sixtenths of one per cent. to 2.32 *per cent.* The idea of the decadence of the Indians has been principally founded upon exaggerated accounts of their numbers a hundred years ago, the dropping of the distinctive names of sections of tribes and the adoption of their general title, leading to the infeaence that they had become extinct, and the disposition of commanders of Indian expeditions to multiply on paper the numbers of the enemy left on the battle ground.

Seeing that the popular notion of the rapid decrease of the "redskins" is a fallacy, and that the Indian question is likely to grow instead of diminish, is it not about time that the Government should radically change its method of treating it? The policy of force has proven just as much of a failure in the case of the Indians as in the case of the "Mormons." There is abundant evidence that the natives can be colonized and trained to be agriculturists instread of tramping vagabonds, and led to become self-supporting citizens instead of begging, thieving, murderous marauders.

The Winnebagoes form a good illustration of this fact. The tribe *has, under favorable management* made rapid strides in the ways of civilization during the past few years. The former idle, loafing and treacherous nomads now support *themselves and families* from the proceeds of their own labor on lands for which they hold the government patents, they live in their own houses, and send many of their children to the schools that have been established among them. Their Agent, in his annual report, shows that only about a fourth of their children are regular pupils, but thinks that if more school-houses are erected the interest in the cause of education among the Winnebagoes will be increased. He also recommends the adoption of a compulsory system. But this poor showing of school attendance among these Indians, compares favorably with educational figures in some of the Southern States. In Arkansas, for instance, *only one* out of every twelve of the school *population* attend. In Alabama the attendance *is only one out of* every four, and in Florida one in three.

There are small tribes in Oregon who have settled down to labor for a living, and like the Winnebagoes are getting ready to become tax-paying citizens of the United States. If faith is strictly kept with the Indians, all contracts rigidly observed, all promises truly fulfilled, and the more controllable tribes are settled upon soil which they can cultivate, tools, teams and implements being furnished them and rations to last until they can raise their own food, examples will be set to the wild and apparently untamable bands which they will be led in time to profit by, and before many years have rolled away, the great bulk of the whilom savages will be converted into tractable and industrious workers, moving forward on the highway to civilization. But while there is money to be made by civil or military speculators in the present methods of swindling and slaughter, there is not much likelihood of a more beneficent and Christian policy. One thing is certain, the extermination mode is a failure; wisdom, to say nothing of justice, suggests a new departure.