



ELIAS SMITH...EDITOR AND PUBLISHER.

Wednesday,April 15, 1863.

TO THE PUBLIC.

I hereby inform the public that the DESERET News is not and has not been an organ of mine, for, except matter accompanied with my name, I have only occasionally, and that too some time ago, known any more of the contents of the News until after it is published, than I have of the copy furnished to the compositors of the New York Ledger.

BRIGHAM YOUNG.

G. S. L. City, Jan. 28, 1863.

THIRD DISTRICT FEDERAL COURT.

[REPORTED BY J. V. LONG.]

Wednesday, April 8, 11 a.m.

Court met pursuant to adjournment. The record of Tuesday was read and signed by the Judge.

The case of the U. S. vs. T. C. Armstrong, charged with purchasing a pistol from a soldier, was called, and the defendant having pleaded guilty, it was ordered and adjudged by the Court that the said defendant be imprisoned in the penitentiary for the period of five days, and that he pay to the United States the sum of fifteen dollars and costs of suit.

Court adjourned till Thursday, at 11 a.m.

Thursday, April 9, 11 a.m.

Court met as per adjournment.

In the case of the United States vs. Edward Ray et al., Mr. Ferguson, counsel for the defendant, filed a motion for Ray to have a separate trial, which the Court granted.

The prisoner Ray having been arraigned and pleaded not guilty, the Court proceeded to empanel a jury to try the case, as follows:

Aaron F. Farr, taken; Hiram B. Clemens, challenged peremptorily by the defense; Jas. M. Gallaher, James A. Thompson, Thomas B. Broderick, John L. Blythe, Joseph Busby, Henry McEwan, Lucas Hoagland, Millen Atwood, James Fielding and Samuel L. Sprague, taken.

Mr. Miner opened the case to the jury.

Reuben Miller, O. P. Rockwell and James Cragan were sworn and testified on the part of the prosecution.

Frank Matthews, an accomplice, and one whose name was in the indictment with Ray's, being called as a witness for the government, was objected to by the defense. Question argued by counsel, after which the Court ruled that Matthews might testify, with the express understanding that the jury would be instructed to place just such value upon it as was usual in such cases—with considerable discredit. Marshal Gibbs and Mr. Rogers were also called, and testified on the part of the prosecution.

Court took a recess for one hour.

At half-past 2 the court resumed its session.

James Hupp, James W. Walker and James Talbott were sworn and testified on the part of the defense. Cross-examined by the prosecuting attorney.

Mr. Miner then stated to the Court that he had rebutting testimony, which, if the case could be continued till to-morrow, he would produce, whereupon the court adjourned till 10 a.m. on Friday.

Friday, April 10.

Court met pursuant to adjournment. The record of Thursday was read and signed, as usual.

The case of the United States vs. Ray was resumed.

The prosecution introduced Lieut. Gately, who produced the pay-roll from Camp Douglas to prove that Talbott was not discharged until the 17th of November last, whereas he had sworn on yesterday that he was discharged on the 15th, and that he spent that evening with the prisoner in a hotel in this city, and was gambling with him on the evening that Ray was charged in the indictment with having stolen the government mules.

The indicted witness Matthews was recalled, after which, on the application of the prosecuting attorney, Talbott was arrested for perjury.

William Burton was sworn, and testified on the part of the defense.

The attorneys addressed the jury, making, what the gentleman for the defense denominated, a few remarks.

The Judge summed up the case and in-

structed the jury, when they retired in charge of an officer.

William Burton was arraigned, charged in the indictment with complicity in the mule-stealing affair, and pleaded not guilty. The trial was set for Saturday.

Alonzo Gavitt was brought into Court and arraigned on a charge of larceny. The prisoner pleaded guilty to the second count of the indictment wherein he was charged with secreting the mules after they were stolen, and threw himself upon the mercy of the Court, whereupon the prosecution entered a *nolle prosequi* on the first count. Sentence was deferred till the other cases embraced in the same indictment should be disposed of.

The jury returned into Court and rendered the following verdict:

"We, the jurors, in the case of Edward Ray, charged with stealing two mules, the property of the United States government, find him GUILTY as alleged in the indictment.

(Signed) T. B. BRODERICK, Foreman."

The verdict was also signed by the other eleven jurors.

Court adjourned till Saturday, at 11 o'clock a.m.

Saturday, April 11.

Court met as per adjournment. The record of Friday was read and signed by the Judge.

The case of the United States, vs. William Burton and Alonzo Gavitt, indictment for larceny, was called. Both pleaded guilty; the Court sentenced them each to sixty days hard labor in the Penitentiary.

Edward Ray, found guilty of larceny, was sentenced by the Court to one year's solitary confinement in the Penitentiary, and to pay a fine of \$600 and costs of suit, taxed at \$150, the culprit to remain in prison after the expiration of the sentence of the Court until the fine and cost shall be paid.

The case of the United States vs. Frank Matthews, on charge of complicity in the larceny of Ray was called. The Prosecuting Attorney, Mr. Miner, with the leave of the Court, entered a *nolle prosequi*, and the prisoner was discharged from custody.

Court then adjourned till Monday, at 12 o'clock, m.

Monday, April 13.

The court met as per adjournment. The record of Saturday was read and signed by the Judge.

Henry A. Hedger and John Squires were admitted citizens of the United States.

The Grand Jury came into court, the roll called and all were present. On being asked if the Grand Jury had any presentments to make, Mr. G. A. Smith, foreman, presented an indictment against two Indians, viz: Curley and Wah-pah-nah, for stealing horses, and another against James Talbott for perjury.

The case of the United States vs. Curley and Wah-pah-nah was called. The defendants having no counsel, the Court appointed James Ferguson, Esq. to defend them.

Court took a recess till 2 p.m.

The court resumed its session, and immediately thereafter the Grand Jury came again into court, and on being asked the usual question, the foreman presented two documents. The Judge remarked that he perceived, on looking over the papers presented, that they were not ordinary indictments, but presentments. The foreman requested that the Clerk should read them in open court, which the Judge granted. They were as follows:

To the Honorable United States District Court for the Third Judicial District of Utah Territory, now in session at Great Salt Lake City:—

We, the United States Grand Jurors for the said Third Judicial District, in the discharge of a duty due the Court and community, and in accordance with a time-honored custom, when anything notoriously offensive or deleterious to the health of the people, or that is obnoxious and revolting in its character, exists, to make presentment thereof to the Court, beg leave to make this statement of facts, and ask that it may be spread upon the records of the court.

We desire to state, that before the commencement of the nuisance hereinafter complained of, there was and still is an ancient watercourse or stream commonly called Red Butte creek, flowing from the mountains east of Great Salt Lake City, county of Great Salt Lake, the waters of which, either in the original channel of said stream, or in artificial channels, canals, sects, or ditches, constructed for that purpose, were, and are, conducted into Great Salt Lake City aforesaid, for the use of the inhabitants thereof, to wit, for the use and benefit of the people residing in the fourth and first municipal wards of said city, some three thousand of whom did and do use the said water and were, and are entirely dependent upon it, not only for irrigating but for drinking and culinary purposes:

That, on or about the 20th day of October, A. D. 1862, there was established, on or near said watercourse or watercourses, in the suburbs of Great Salt Lake City and within the limits of the said corporation, a military encampment, called Camp Douglas, where have since been stationed a large body of troops commonly known as "California Volunteers," who have, since the establishment of said military encampment as aforesaid, erected stables, yards, corrals, or inclosures, for their animals on or near said watercourses; have diverted the water, or part thereof, from its former channels, and caused it to run through the yards thus built for their stock, and from thence into another watercourse leading into

said city; have placed obstructions in the stream; have built privies on or close to one of said streams of water, and in divers other ways have the said troops and those following them, or attached to their encampment, who are also located on said creek, fouled the water thereof, and rendered it extremely filthy and nauseous, to the great inconvenience of the people of the said city, and deleterious to their health, to wit, of the three thousand persons who use said water for the purposes hereinbefore set forth:

That the amount of water in said creek or streams thus running into Great Salt Lake City as aforesaid, by the diversion of a portion thereof from its regular channels, and the use made thereof by the said military encampment has been, and will be so long as the said troops shall remain at Camp Douglas, particularly in the summer season, when needed for irrigating purposes, materially lessened, from which great loss and damage will inevitably accrue to the citizens aforesaid, who were, and are entirely and solely dependent thereon for the watering of their lands, orchards and gardens, and without which they would be unproductive, and soon become, as formerly, a barren, desolate waste.

So the jurors aforesaid, upon their oaths, do say that said stream of water, in manner and by the means as aforesaid, has been, and is, rendered corrupt and unwholesome, and is made unfit for drinking and culinary purposes as aforesaid, and lessening the amount of said water used for the purposes as aforesaid, to the great injury and common nuisance of all the persons aforesaid, against the peace and dignity of the commonwealth of the United States.

George A. Smith,
Franklin D. Richards,
Elias Smith,
William S. Muir,
Samuel F. Atwood,
Phillip Margetts,
John R. Wberry,
Claudius Victor Spencer,
Charles J. Thomas,
John W. Myers,
Alfred Gordon,
George W. Ward,
Horace Gibbs,
Lewis A. West,
Leonard G. Rice,
Isaac Brockbank,
George W. Bryan,
James Bond,
John B. Kelly,
Gustavus Williams,
Wells Smith,
John D. T. McAlister,
Andrew Cunningham.

To the Honorable United States District Court for the Third Judicial District of Utah Territory, now in session at Great Salt Lake City:

We, the United States Grand Jury for said district, in discharge of that which we consider a duty to the Court and community, and in accordance with a common custom with Grand Jurors after concluding their labors, if there exists anything in the district prominently offensive, to call the attention of the Court and the people to the fact by solemn presentment, beg leave to tender this statement, and ask that it be spread upon the records of the court.

We desire to state in advance, that we have not resolved to make this statement inconsiderately, or arranged the facts incautiously, but upon mature deliberation, and fully appreciate the responsibility which rests upon us as Grand Jurors under oath, and pledge ourselves to the entire truth of the facts herein stated.

As preliminary to what we desire to say, we lay it down as a political axiom, that the existence and perpetuity of a Republican government depends upon the equilibrium and harmony with which the three branches, legislative, judicial and executive are maintained and kept in subordination to each other, so that neither may encroach improperly upon the other. Interference, as upon private rights of individuals, becomes oppressive, the department interfered with is jostled out of its true balance, the harmony of the entire system is destroyed, confidence is lost, confusion and anarchy ensue, protection to life, liberty and property, the object of all enlightened governments, becomes a mere rope of sand.

To the legislative branch is confined the law making power, to the judicial, the exposition, administration and enforcement of the law, and to the executive, the execution or superintendence of the law thus enacted and administered.

The veto power usually conferred upon the Governor or executive, is a high prerogative, and never was intended should be exercised, except in case of unconstitutional or hasty and imprudent legislation. It is a dangerous power when placed in the hands of a wicked, corrupt, or even imprudent man. The presumption of law is, (though a very violent one when applied to the present Executive of Utah) that this power will only be resorted to in extreme cases, and never for the purpose of gratifying caprice, folly, or the ambition of inflated pride. In all constitutional and wholesome legislation, it is the imperative duty of the Governor to give his sanction to the laws passed. When he refuses to do this, and especially when such sanction is necessary to the validity of the laws, as in the case under the Organic Act of Utah, and when he assigns no reasons for withholding his signature, but with unmanly stealth pockets the acts of solemn and vital legislation, he becomes a mere tyrant, an enemy to civil gov-

ernment, degrades his high position, and is unworthy the toleration of a free and enlightened people.

Stephen S. Harding, the present Governor of Utah, arrived in this city in July last, and at once assumed the authority of the Executive department of the Territorial government. He came with honeyed words upon his lips, smiles upon his countenance, but with hypocrisy and guile in his heart. He professed sympathy for the people in their struggle to establish a colony midway between the two great oceans. He expressed, publicly and privately, his surprise and satisfaction for their success, and pledged himself to co-operate with them in promoting their continued prosperity. On more than one occasion, he reiterated the asseveration that, when he became satisfied that his administration was distasteful to the people, he would retire from the gubernatorial chair.

In his speech in the Bowery on the 24th of July last, before a vast concourse of people, he said: "If I know my own heart, I come amongst you a messenger of peace and good will. I have no wrongs either real or imaginary to complain of, and no religious prejudices to overcome."

After speaking in unqualified terms of the constitutional right of the people, to incorporate any creed in their religious faith they saw proper, as also in strains of eulogy for the wonderful progress they had made in civilization, improvement and material prosperity, he adds: "Honestly conform to the standard of your creed and faith, and though you may for a time be cast down, you cannot be destroyed, for the power of the Eternal One will be in your midst, though no mortal eye may behold the pillar of cloud and of fire. As the Great Master of sculpture gathered and combined all the perfections of the human face into one divine model, so you, in that one grand article, have bound into one golden sheaf all the Christian virtues that underlie our civilization. But this must suffice. I perhaps have said more than I ought to have said, and yet I could not have said less. If my words shall be as kindly received by you, as they have been honestly and frankly uttered by me, and we will act accordingly, my mission amongst you cannot fail of being alike profitable to you and the Government I represent."

See printed copy of speech in the "Deseret News" of July 30th, 1862.

Such were the professions and sentiments of the Governor on the 24th of July last. Such, the language used in the presence of the people, and such were his commendations of their religious faith, plurality and all, but what has been his course and conduct?

With his private character we have nothing to do. We would not raise the veil, nor have we disposition to expose human depravity or infirmity. We would rather screen from the public gaze, the consequence of unbridled passions, especially when exhibited by a man who ought to be the model of human excellence and virtue; but his public acts and records are legitimate subjects for exposition.

On the 10th day of December, 1862, the Governor delivered his first message to the Legislative Assembly. The entire document, comprising many pages, was an unprovoked insult to that body—insinuating, as the Governor did, in unmanly language, the disloyalty of the Legislature and people. The religious faith of the people, a few months before so eloquently extolled, and seemingly adopted, is now held up to scorn, bitter sarcasm and ridicule. The constitutional right of their worship is questioned, and their conscientious adoption of it, contemptibly compared to heathen and pagan customs.

But not to dwell; the Governor says in conclusion: "I desire to assure you, gentlemen, that nothing in my power shall be wanting to demonstrate my warmest regard for the interest and welfare of the people of the Territory. They deserve much at the hands of the Federal Government for their persevering industry, and so far as my humble efforts may contribute to that end, they shall never be wanting. No matter what differences of opinion may exist between us on many subjects, I will endeavor to convince you of my sincerity, by the uprightness of my conduct, and shall always be satisfied with the discharge of my official duties, when I know they stand approved by the general voice of the people."

In this extract there are two prominent points. First, a pledge to co-operate as Governor with the Legislature in all that promises prosperity to the people; and second, an earnest desire for the approval of the people in the discharge of official duties.

How has the pledge been redeemed? Nothing contributes more to the prosperity of any community, State or Territory, than the enactment of good and wholesome laws, without which there is no security to life, liberty or property.

Has the Governor aided in this important work? No act passed by the Legislature can become a law without his signature. Has he affixed it to those acts imperiously demanded by the wants of the people, and against which there could not have been urged the slightest objection? Let the record speak!

The Legislature were in session forty days, and passed some important general acts that were much needed—among them were:

An act authorizing the issuing of executions against judgment, debtors, etc.

An act changing the times of holding the Supreme and District Courts.

An act prescribing the time of completing the Assessments.

An act in relation to Territorial and County taxes.

Resolution relating to the publishing and