

# THE DESERET NEWS.

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## HISTORY OF JOSEPH SMITH.

DECEMBER, 1843.

The city council also passed "An ordinance to erect a dam in the Mississippi river, and for other purposes."

"Section 1. Be it ordained by the city council of the city of Nauvoo, that Joseph Smith and his successors for the term of perpetual succession, are hereby authorized and empowered to erect a dam, of suitable height to propel mills and machinery, from any point within the limits of said city and below the Nauvoo House, and in a proper direction to reach the island this side of Montrose, but not to interfere with the main channel of the Mississippi river.

Section 2. And be it further ordained that the said Joseph Smith and his successors are further authorized to erect, north of the aforesaid island, a dam, pier, or break-water to intersect the sand bar above.

Section 3. Be it further ordained that said Joseph Smith and his successors are also authorized and have full liberty to use the said dam and water for the purpose of propelling mills and machinery, and shall be governed in their rates of toll, and rules of manufactory by ordinance of said city.

Section 4. And be it further ordained that the said Joseph Smith and his successors, are further authorized and empowered to use the space within the limits of the said dam as a harbor or basin for steam boats and other water craft, and for which purpose they may construct docks, wharves, and landings, and receive such fees for wharfage, as may be regulated by ordinance of said city.

Section 5. And be it further ordained that said Joseph Smith and his successors, are further authorized to build an embankment on the east side of the aforesaid island, to connect the said dam with the pier on the north, and to use the top of said dam for a public road or highway, receiving for compensation from those who cross upon it, such rates as may be allowed by ordinance of said city.

Passed December 8, 1843.

JOSEPH SMITH, Mayor.

WILLARD RICHARDS, Recorder."

I suggested to the council the idea of petitioning Congress, to receive the city of Nauvoo, under the protection of the United States Government, to acknowledge the Nauvoo Legion as U. S. troops, and to assist in fortifications and other purposes, and that a messenger be sent to Congress for this purpose at the expense of the city.

Messrs. John Taylor, Orson Spencer, and Orson Pratt were appointed a committee to draft a memorial according to my suggestions.

Saturday, 9.—At home.

Prayer meeting in the Assembly Room.

I copy from the Neighbor:—

"At a very large meeting of the citizens of Nauvoo, held at the corner of Main and Water streets, Mr. Heber C. Kimball was elected chairman, and J. M. Bernhisel appointed secretary. Mr. George A. Smith, having made a few observations, Mr. John Taylor read the preamble and resolutions of a meeting held at the Temple, on the 7th instant, also an ordinance entitled 'An extra ordinance for the extra case of Joseph Smith and others,' recently passed by the city council of the city of Nauvoo: likewise the fifth and sixth articles of the amendments of the Constitution of the United States; and the opinion of the attorney general of the State of Illinois on the subject of the organization of the Nauvoo Legion, he being of the opinion that said Legion was disconnected from the military communities of the whole State, and in no way subject to the regular military officers, possessing an exemption, even from subjection to the general military laws, with a law making power vested in their own Legion.

After some pertinent remarks by Mr. Taylor, General Joseph Smith briefly addressed the meeting; he dissented entirely from the opinion of the attorney general, and observed that it was stated in the charter that the Legion was a part of the militia of Illinois, and that his commission declared that he (General Smith) was the Lieutenant General of the Nauvoo Legion, and of the militia of the State of Illinois, and as such it was not only his duty to enforce the city ordinances, but the laws of the State when called on by the Governor. He also stated that he had been informed that the chief magistrate of Missouri had it in contemplation to make another requisition on the Governor of Illinois for him (Joseph Smith).

The meeting then adjourned sine die.

H. C. KIMBALL, Chairman.

J. M. BERNHISEL, Sec."

Received the following:—

"Nauvoo Legion, Nauvoo City, }  
Dec. 9, 1843. }

Lieut. Gen. Joseph Smith:—

In consequence of the orders I received from you 'to hold in readiness a sufficient portion of the Legion, &c.' To make said forces efficient, it will be necessary to supply them with munitions of war, which of course must be done at the expense of the city, you will therefore please to give orders to the commandants of cohorts on their application to you on the city

treasury for whatever amount you may think proper on the present occasion.

Most respectfully, your obedient servant,  
WILSON LAW, Major Gen. N. L."

Sunday, 10.—Rainy day. I staid at home.

A prayer meeting held this evening in the Assembly Room: I was not present. Brigham Young presided; several sick persons were prayed for.

By letter from J. White, deputy sheriff of Clark county, Missouri, I learn that Mr. Daniel Avery is in Marion County prison, without trial. The sheriff requests several men to go there as witnesses, it is evidently a trap to get some more of our people into their power. When I was in prison in Missouri, my witnesses were arrested before they got into court to testify, except one, who was kicked out of the court by an officer, Lieut. Cook, who dam'd him, and ordered some of his company to shoot him. After which the States Attorney Birch turned to me tauntingly, saying, "Why the hell don't you bring on your witnesses," and Judge King laughed at my discomfiture. The Saints have had enough of Missouri mob justice.

Monday, 11.—The following affidavit will shew that some of the citizens of Illinois are so far fallen, and so much governed by mobocratic influence as to assist the Missouri wretches in their hellish designs:—

"State of Illinois, }

Hancock County, }

On the 11th day of December, 1843, came Sisson A. Chase before me, Aaron Johnson, a justice of the peace of said county, and after being duly sworn depose and saith, that the crime of kidnapping has been committed in Hancock county, and on the 2nd day of this present Dec., 1843, at the house of Schrench Freeman, about four miles and a half south of Warsaw, in said county; your said affiant heard a man by the name of John Elliott say that he was going a shooting turkeys. When asked what he was going to shoot them with, he showed a brace of pistols and a large hickory cane; your affiant observed that he thought he could not kill turkeys with such weapons, and the said Elliott said there was a certain cock he meant to take before night, and they would do for that. He, the said Elliott, went off, and your affiant did not see him till Sunday evening the third, when your affiant asked the said Elliott if he had caught his turkey, and he replied, yes, the one he was after, a Mormon elder. Your affiant then asked him who he was, and he said Daniel Avery. Your affiant then asked the said Elliott what had been done with said Avery? and he said we put him on to a horse, tied his legs and guarded him to the river, from whence about ten o'clock at night, we took him into Clark county, Missouri, for stealing a horse four years ago, where they would try him, and if found guilty, they would then take him into another county, where there was a jail, as there was none in Clark county. On the 4th day of December, I asked him if they had writs or authority to take Mr. Avery, he replied, we all had writs. On the 5th, said Elliott said he expected to get into difficulty on account of this scrape; but if any Mormon makes any business with me, I will shoot him; and further your affiant says not.

SISSON A. CHASE.

Subscribed and sworn to this 11th day of December, 1843, before me.

AARON JOHNSON, J.P."

Which I sent to the Governor, with this letter:—

"Nauvoo, Dec. 11, 1843.

Sir:—I herewith forward your Excellency another affidavit on the subject of the late kidnapping, and shall continue the same as they come to hand, expecting your cordial co-operation in the premises, that the laws may be magnified and made honorable, and our lives held precious, our friends saved from jeopardy, and the 'captives freed.'

Respectfully, I have the honor to be,

Your obedient servant,

JOSEPH SMITH."

Meetings were held, and resolutions passed, in all the wards of the city, requesting the city council to raise a company of 40 men, to act as police.

Last night two ruffians, whose names are unknown, went to the house of brother Richard Badham, a farmer living on the prairie, robbed the house of \$4.50, threatened his life, stabbed him in the abdomen, when part of his caul gushed out. Dr. J. M. Bernhisel dressed his wounds to-day, and he thinks there is a prospect of his recovering.

Tuesday, 12.—In office at 9 a.m., and wrote a letter to my uncle:—

"President John Smith:—The petition of a special conference at Macedonia of last November for your appointment as Patriarch in the Church has been received, duly considered, and is granted. You have my best wishes in your behalf, as well as my prayers, that you may fill so honorable and exalted a station with the dignity, sobriety, and grace which has hitherto characterized your conduct and communion with men, as a man of God.

Respectfully yours,

JOSEPH SMITH."

At 10 a.m., attended city council, which passed an ordinance exempting all Church property from city tax.

In accordance with the petitions from the several wards, the council passed the follow-

ing:—"An ordinance for selecting forty policemen and for other purposes."

"Section 1. Be it ordained by the city council of the city of Nauvoo, that the mayor of said city be, and he is hereby authorized, to select and have in readiness for every emergency, forty policemen, to be at his disposal in maintaining the peace and dignity of the citizens, and enforcing the ordinances of the said city; for ferreting out thieves and bringing them to justice, and to act as daily and nightly watchmen, and be under the pay of said city.

Passed December 12, 1843.

JOSEPH SMITH, Mayor.

W. RICHARDS, Recorder."

The council also passed "An ordinance for the health and convenience of Travellers and other persons."

Section 1. Be it ordained by the city council of the city of Nauvoo, that the mayor of the city be, and is hereby authorized to sell, or give spirits, of any quantity, as he in his wisdom shall judge to be for the health, comfort or convenience of such travelers, or other persons, as shall visit his house from time to time.

Passed December 12, 1843.

JOSEPH SMITH, Mayor.

WILLARD RICHARDS, Recorder."

Wednesday, 13.—At home.

I insert an editorial from the Neighbor:—

"PUBLIC MEETING.

It will be seen in another column that a public meeting was held in this place for the purpose of providing some remedy for the repeated aggressions of the State of Missouri, since which time an ordinance has been passed by the city council to carry into effect that object, and to prevent the citizens of this place from being any longer imposed upon by the continued illegal proceedings of the State and citizens of Missouri.

We think that it is high time that something should be done to screen ourselves from the continued aggressions of this meddling, troublesome, blood-thirsty herd; and we know of no means that will be more efficient and lawful, than the one adopted.

We have done good for evil long enough, in all conscience, we think that we have fulfilled the scriptures every whit. They have smitten us on the one cheek, and we have turned the other, and they have smote that also.

We have also fulfilled the law, and more than fulfilled it: and for the sake of peace when we knew that we had violated no law, nor in any wise subjected ourselves to persecutions, we have endured the wrong patiently, without offering violence or in any wise injuring the heartless wretches who could be trusted with such a dishonorable document. Those vagabonds have been suffered to prowl at large, and boast of their inglorious deeds, in our midst, and no man has injured them or said why do you so.

The time, however, is now gone by for this mode of proceeding, and those vagabonds must keep within their own borders, and let peaceable citizens alone or receive the due demerit of their crimes. We think that this ordinance passed by the city council is wise, judicious and well timed, and is well calculated to protect peaceable citizens in their rights, and to prevent those lawless vagabonds from interfering with the rights of peaceable citizens.

To those unacquainted with our relationship to Missouri, and the accumulated wrongs, and repeated aggressions that we have received from the hands of that State, our language may appear harsh and ill-timed; but those who are in possession of those facts know better. Their merciless, unrelenting, inhuman persecutions and persecutions, from the time of our first settlement in that State until the present, have been wholly and entirely unprovoked, and without the shadow of law.

Joseph Smith has been suffered to be taken, time and again by them; we say suffered, because he could not be legally and constitutionally taken. Joseph Smith never committed the crimes of which he is charged: he is an innocent man.

But allowing their false, diabolical accusations to be true, what then?—Does it follow that he is continually to be followed for the same offence? verily no. The Constitution of the United States expressly says, 'nor shall any person be subject for the same offence to be twice put in jeopardy of life, or limb.' And yet we find that the State of Missouri has put Joseph Smith in jeopardy no less than four, or five times. He was tried once by a military tribunal in Missouri, and sentenced to be shot. He was afterwards tried by a pretended civil (mobocratic) court, and since then he has been several times apprehended, tried, and acquitted for the same offence, in this State, by Missouri requisitions.

Is he still illegally and unconstitutionally to be held in abeyance by these miscreants, or shall we as free-born American citizens assert our rights, put the law in force upon those lawless, prowling vagabonds, and say that he shall be free.

Shall we suffer our pockets to be picked through the influence of these scoundrels eternally, by defending ourselves against vexatious law suits, or shall we take a more summary way, and by a legal course punish the aggressors, proclaim our freedom, and shield ourselves

under the broad folds of the Constitution. The latter is the course for us to pursue.

The ordinance passed by the city council will secure this object, and we are glad to find that the opinion of J. Lamborn, attorney general, and J. N. McDougall, correspond so much with our own, 'That the Nauvoo Legion is an independent military organization, and is by law expressly required to sustain the municipal laws of Nauvoo.'

What are we to say about those kidnappers who infest our borders, and carry away our citizens? those infernals in human shape.

The whole European world has been engaged in a warfare against those who traffic in human blood. Negotiations have been made, treaties entered into, and fleets have been sent out through the combined efforts of the nations to put a stop to this inhuman traffic; but what would those nations think, if they were told the fact, that in America, Republican America, the boasted cradle of liberty, and land of freedom, that those dealers in human flesh and blood, negro dealers and drivers, are allowed with impunity to steal white men, and those sons of liberty can obtain no redress.

Great God, has it come to this, that free born American citizens must be kidnapped by negro drivers! What are our authorities doing? Why are not these wretches brought to justice? We have heard that one or two of the citizens of Illinois have been engaged in assisting these wretches. 'We shall try to find out who they are, and their whereabouts, and make them known, and then if they are not brought to condign punishment, we shall say that justice has fled from Illinois.'

Thursday, 14.—At home.

Philander Avery arrived in Nauvoo, having made his escape from his kidnappers in Missouri.

I received the following milk and water letter from Governor Ford:—

"Springfield, Dec. 12, 1843.

Gen. Joseph Smith:—

Sir:—I have received your favor of the 6th instant, together with the proceedings of a public meeting of the citizens of Nauvoo, on the subject of the late kidnapping by the people of Missouri and others, of two citizens of this State.

You request to know if any portion of the Legion shall be called out. My answer is, no. The militia cannot be called out, except in the cases specified by me in my letter to Governor Reynolds, dated in the month of August last; in which I took the ground that the militia can only be called out to repel an invasion, suppress an insurrection, or on some extreme emergency; and not to suppress, prevent, or punish individual crimes. I still am of opinion that the ground assumed by me on that occasion, is the true one. The prevention and punishment of individual offences have been confided by the constitution and laws of this State, to the judicial power and not to the executive.

If a citizen of the State has been kidnapped, or if property has been stolen from this State, and carried to the State of Missouri, those who have done either, are guilty of an indictable offence. But the constitution and the laws have provided no means whereby either the person or property aken away, can be returned, except by an appeal to the laws of Missouri. The Governor has no legal right to demand the return of either. The only power I would have would be simply this: If any of the guilty persons should be charged with larceny or kidnapping by indictment or affidavit duly certified, and with having fled to Missouri; then I would have the power, and it would become my duty to make a demand upon the Governor of Missouri, for the surrender of the fugitives to be tried by the courts of this State. I am fully satisfied that in ordinary cases this is all the power I would possess. It would be simply a power to be exercised in aid of the judicial power. Any other powers to be exercised by the Governor would be to make him a dictator and a despot. It is true that an extraordinary case might arise, in which the inhabitants of one State might rise in warlike and hostile array against those of another. In which case a state of war would exist, and then only could I interfere.

I would advise your citizens to be strictly peaceable towards the people of Missouri. You ought to be aware that in every country individuals are liable to be visited with wrong which the law is slow to redress, and some of which are never redressed in this world. This fact, however, has never been held to be a justification for violence, not warranted by law.

If any of the people of Nauvoo, should invade Missouri for the purpose of rescuing persons there in jail, the consequence would be that indictments would be presented against them, and demands made upon me for their arrest and surrender, which demands I would be compelled to obey, and thus they would be harassed by interminable demands and prosecutions: and very likely it would lead to a species of border warfare which would be exceedingly annoying to a peaceable city: and if you could be placed in the wrong, might lead to exceedingly unpleasant consequences with reference both to law and public opinion.