HAD HE AUTHORITY?

Governor Thomas's Recent Proclamation Fixing Terms of Court.

U. S. DISTRICT ATTORNEY'S OPINION

He Does Not Think the Power Rests with the Governor, but with the Legislature.

A few weeks ago the News published a proclamation by Governor Thomas arranging for terms of court at Logan in the Fourth judicial district, and Nephi, in the First. The proclamation named September as the month in which these terms should be held, but made no provision for clerks, juries, court dockets, etc.

Associate Justice Miner has addressed a letter to United States District Attorney Varian, requesting his opinion on certain points concerning the establishment or the term of court at Logan, and as to the authority of the governor for issuing the proclamation.

Mr. Varian, in his reply, says that no such authority exists, as indicated by the following extracts from his letter:

"There would be but one clerk, and he would be required to provide dockets and a deputy for the court at Logan. As I understand it, the expenses of providing the dockets and books are allowed by the government. * * * As to the juries I think the court would have power to cause them to be summoned for either place, but should not hold a grand jury in but one place in the district.

"There is in my mind, however, a serious question presented affecting the legality of fixing the term at Logan. In 1888 Congress provided for the appointment of an additional judge, authorized his assignment by the governor to either district and 'the times and places as now fixed by the statutes of said Territory for holding court therein shall remain until changed by law.'

"By act of February 11, 1892, it was provided 'that the governor and legislative assembly of the Territory of Utah be, and they are hereby authorized to establish a Fourth judicial district in said Territory, and to readjust the districts in said Territory in such a manner as to best promote the convenient administration of justice therein.'

"The legislature, by act of March 10, 1892, created the Fourth judicial district, designating the counties of Weber, Box Elder, Cache, Rich and Morgan as constituting the same. It provides that all cause, both civil and criminal, in which the cause of action shall arise in either of the counties constituting the district, as hereinbefore named, shall be heard, tried and determined in such district, at such time and place as the governor by proclamation may fix.

"This presents to me two questions: First—Whether this authority, so delegated to the governor, is authorized by the act of Congress aforesaid. The act of 1888 declares that the times and places for holding court as then fixed by the statutes of the territory, shall remain until changed by law. The second act of 1892, declares that the governor and legislative assembly are authorized to readjust the districts in such a manner as to best promote the convenient administration of justice therein. Now, in view of these provisions, has the legislature the authority to delegate this power? Possibly there was no necessity for Congress speaking on the subject, but having declared it by will, its intention when ascertained will of course limit the authority of the local legislature.

"Second, if the governor is lawfully exercising the power, does his proclamation meet the requirements of the law conferring authority upon him? Should he not designate in his proclamation where the causes, civil and criminal, arising in either of the counties comprising the district should be tried? Is it to be supposed that the legislature intended to leave it to the pleasure of plaintiffs in civil causes to select either Ogden or Logan as the place for bringing their suits? And in criminal cases, is it to be left to the discretion of the committing magistrates to recognize the defendants to appear at either place, as the magistrate may determine? Does not a fair and reasonable interpretation of the statutes (1892, page 69) require the governor to determine by his proclamation where the causes, arising as aforesaid, shall be tried; that is to say, causes arising in certain counties shall be tried at Logan, in other counties at Ogden? Certainly for the convenient administration of justice this should be so. The local legislature evidently took this view years ago in relation to the then First district.

"These are serious questions and should be determined judicially and after argument. The matter is one in which the bar is generally interested and it seems to me that with propriety you might call upon the attorneys, citizens of the court, to investigate and present the questions. My own judgment is, without present examination, that the power to fix the place of holding court rests with the legislature."

Judge Blackburn has also received a copy of the letter from the district attorney.

Bear Lake Stake Conference.

The quarterly conference of the Bear Lake Stake of Zion was held in Paris, last Saturday and Sunday, May 6th and 7th. Present of the general authorities, Elder George Teasdale; of the presidency of the Stake, Elders Wm. Budge and James H. Hart.

The following Elders ordained High Priests and set apart to act as Bishops of the Meadowville and Round Valley wards respectively. The general and local authorities were unanimously sustained. The subjects presented at the conference were the Dedication and its blessings, the unity of the Priesthood, the use of tithing, and Church school education. The necessity of erecting a suitable Church school building was urged upon the people and Elder Teasdale prophesied that a creditable building would shortly be erected.

The weather was good and a good spirit prevailed.

Releases and Appointments.

Editorial Note.

Elder T. A. Clawson is honorably released from his labors as President of the London Conference, to return home.

Elder S. B. Clawson is honorably released from his labors as traveling Elder in the London Conference, to return home.

Elder G. H. Hall is released from his labors as traveling Elder in the Leeds Conference and is appointed to preside over the London Conference.

Elder David Williams is released from his labors as traveling Elder in the Liverpool Conference, and is appointed to labor as traveling Elder in the Welsh Conference.

Mr. W. Marshall
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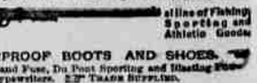

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