

I now express to you my opinion that your conduct in the destruction of the press was a very gross outrage upon the laws and the liberties of the people. It may have been full of libels, but this did not authorize you to destroy it.

There are many newspapers in this State which have been wrongfully abusing me for more than a year, and yet such is my regard for the liberty of the press and the rights of a free people in a republican government that I would shed the last drop of my blood to protect those presses from any illegal violence. You have violated the constitution in at least four particulars; you have violated that part of it which declares that the printing presses shall be free, being responsible for the abuse thereof, and that the truth may be given in evidence.

This article of the constitution contemplates that the proprietors of a libelous press may be sued for private damage, or may be indicted criminally, and that upon trial they should have a right to give the truth in evidence. In this case the proprietors had no notice of the proceeding.

The Constitution also provides that the people shall be protected against unreasonable searches and seizures of their property, and that no man shall be deprived of life, liberty, or property, except by the judgment of his peers (which means a jury trial) and the law of the land; which means due process of law and notice to the accused.

You have also violated the Constitution and your own charter in this. Your Council, which has no judicial powers, and can only pass ordinances of a general nature, have undertaken to pass judgment as a court, and convict without jury a press of being libelous, and a nuisance to the city.

The Council at most could only define a nuisance by general ordinance, and leave it to the courts to determine whether individuals or particulars accused come within such definition.

The Constitution abhors and will not tolerate the union of legislative and judicial power in the same body of magistracy; because, as in this case, they will first make a tyrannical law, and then execute it in a tyrannical manner.

You have also assumed to yourselves more power than you are entitled to in relation to writs of habeas under your charter. I know that you have been told by lawyers for the purpose of gaining your favor, that you have this power to any extent. In this they have deceived you for their own base purposes. Your charter supposes that you may pass ordinances, a breach of which will result in the imprisonment of the offender.

For the purpose of ensuring more speedy relief to such persons, authority was given to the municipal court to issue writs of habeas corpus in all cases arising under the ordinances of the city.

It was never supposed by the legislature, nor can the language of your charter be tortured to mean, that a jurisdiction was intended to be conferred, which would apply to all cases of imprisonment under the general laws of the State or of the United States, as well as the city ordinances.

It has also been reserved to you to make the discovery that a newspaper charged to be scurrilous and libelous may be legally abated or removed as a nuisance. In no other State, county, city, town, or territory in the United States, has ever such a thing been thought of before. Such an act at this day would not be tolerated even in England. Just such another act in 1830 hurled the King of France from his throne, and caused the imprisonment of four of his principal ministers for life. No civilized country can tolerate such conduct, much less can it be tolerated in this free country of the United States.

The result of my deliberations on this subject is, that I will have to require you and all persons in Nauvoo accused or sued, to submit in all cases implicitly to the process of the courts, and to interpose no obstacles to an arrest either by writ of habeas corpus, or otherwise; and that all of the people of the city of Nauvoo shall make and continue the most complete submission to the laws of the State, and the process of the courts and justices of the peace.

In the particular case now under consideration, I require any and all of you who are or shall be accused, to submit yourselves to be arrested by the same constable, by virtue of the same warrant, and be tried before the same magistrate whose authority has heretofore been resisted. Nothing short of this can vindicate the dignity of violated law, and allay the just excitement of the people.

I am anxious to preserve the peace. A small indiscretion may bring on a war. The whole country is now up in arms, and a vast number of people are ready to take the matter into their own hands. Such a state of things might force me to call out the militia to prevent a civil war. And such is the excitement of the country that I fear that the militia when assembled would be beyond legal control.

You are wrong in the first instance, and I can call out no portion of the militia for your defence until you submit to the law. You have made it necessary that a posse should be assembled to execute legal process, and that posse as fast as it assembles is in danger of being imbued with the mobocratic spirit. If you by refusing to submit, shall make it necessary to call out the militia, I have great fears that your city will be destroyed, and your people many of them exterminated.

You know the excitement of the public mind; do not tempt it too far. A very little matter may do a very great injury, and if you are disposed to continue the causes of excitement, and render a force necessary to coerce submission, I would say that your city was built, as

it were, upon kegs of powder, which a very little spark may explode.

It is my intention to do all I can to preserve the peace, and even if obliged to call the militia to prosecute the war so as not to involve the innocent, and comprehend all in the same punishment. But excitement is a matter which grows very fast upon men when assembled; the affair I much fear may assume a revolutionary character, and the men may disregard the authority of their officers.

I tell you plainly, that if no such submission is made as I have indicated, I will be obliged to call out the militia, and if a few thousands will not be sufficient, many thousands will be.

I sincerely hope that your people may do nothing which will make such a proceeding necessary. I hope also that they will be well disposed to co-operate with me in allaying the excitement of the public mind. Immediately discharge such persons as you have under martial law; let them go without molestation. Abstain from all injury to private property; let people go where they please without swearing them first to take no part against you; all such proceedings tend only to inflame the public mind, and raise up ten men disposed to fight you for every one thus foolishly disabled.

Your committee assures me that you are sincerely desirous of preserving the peace, and if so I hope you will co-operate with me in every thing necessary to allay the excitement in the minds of the people.

The following named persons are reported to me as being detained against their will by martial law: John A. Hicks, H. O. Norton, A. J. Higbee, John Eagle, P. J. Rolf, Peter Lemon, and T. J. Rolf. It will tend greatly to allay excitement if they shall be immediately discharged and suffered to go without molestation.

It is also reported here and generally believed—but whether truly or not I have not yet learned—that there are many foraging parties abroad from Nauvoo, committing depredations upon the cattle and property in the vicinity. These acts, if correctly reported, must absolutely cease immediately, if you expect any person here to have the power to preserve the peace.

In case the persons accused should make no resistance to an arrest, it will be against orders to be accompanied by others. If it should become necessary to have witnesses on the trials, I will see that such persons shall be duly summoned, and I will also guarantee the safety of all such persons as may thus be brought to this place from Nauvoo either for trial or as witnesses for the accused.

If the individuals accused cannot be found when required by the constable, it will be considered by me as equivalent to a refusal to be arrested, and the militia will be ordered accordingly.

I am, gentlemen, with great respect,
Your obedient servant,
THOMAS FORD,
Governor and Commander in chief."

To which I wrote the following answer:—
"Nauvoo, June 22nd, 1844:
12 o'clock, p.m. }

To His Excellency Thomas Ford:—
Sir:—Yours of this date is received by Messrs. Taylor and Bernhisel; a part of the same delegation, Mr. Woodworth, who was detained yesterday, started for Carthage at 12 noon this date, whom we perceive had not arrived at your last date; some documents conveyed by him would tend to counteract some of the views expressed in your Excellency's communication, and we feel confident if all the facts could be before your Excellency, you would have come to different conclusions.

Our insisting to be accountable only before our own municipal court is totally incorrect. We plead a habeas corpus as a last resort to save us from being thrown into the power of the mobocrats, who were then threatening us with death, and it was with great reluctance we went before the municipal court on account of the prejudice which might arise in the minds of the unbiased, and we did not petition for a habeas corpus until we had told the constable that on our lives we dare not go to Carthage for trial, and plead with him to go before any county magistrate he pleased in our vicinity, (which occurrence is common in legal proceedings) and not a member of our society; so that our lives might be saved from the threats thus already issued against us.

The press was declared a nuisance under the authority of the charter as written in 7th section of addenda, the same as in the Springfield Charter; so that if the act declaring the press a nuisance was unconstitutional, we cannot see how it is that the charter itself is not unconstitutional; and if we have erred in judgment it is an official act, and belongs to the Supreme Court to correct it, and assess damages vs. the city to restore property abated as a nuisance. If we have erred in this thing we have done it in good company; for Blackstone on wrongs asserts the doctrine that scurrilous prints may be abated as nuisances.

As to martial law, we truly say that we were obliged to call out the forces to protect our lives; and the constitution guarantees to every man that privilege; and our measures were active and efficient, as the necessity of the case required; but the city is and has been continually under the special direction of the Marshal all the time. No person to our knowledge has been arrested only for violation of the peace, and those some of our own citizens, all of whom we believe are now discharged; and if any property has been taken for public benefit without a compensation, or against the will of the owner, it has been done without our knowledge or consent, and when shown shall be corrected, if the people will permit us to resume our usual labors.

If we have committed a gross outrage upon

the laws and liberties of the people, as your Excellency represents, we are ready to correct that outrage when the testimony is forthcoming. All men are bound to act in their sphere on their own judgment; and it would be quite impossible for us to know what your Excellency's judgment would have been in the case referred to, consequently acted on our own; and according to our best judgment, after having taken able counsel in the case. If we have erred we again say we will make all right, if we can have the privilege.

The constitution also provides that the people shall be protected against all unreasonable search and seizure. True; the doctrine we believe most fully, and have acted upon it; but we do not believe it unreasonable to search so far as it is necessary to protect life and property from destruction.

We do not believe in the 'union of legislative and judicial power,' and we have not so understood the action of the case in question.

Whatever power we have exercised in the habeas corpus has been done in accordance with the letter of the charter and constitution as we confidently understood them, and that too with the ablest counsel; but if it be so that we have erred in this thing, let the Supreme Court correct the evil. We have never gone contrary to constitutional law, so far as we have been able to learn it; if lawyers have belied their profession to abuse us, the evil be on their heads.

You have intimated that no press has been abated as a nuisance in the United States; we refer your Excellency to Humphrey vs. Press in Ohio, who abated the press by his own arm for libel, and the courts decided on prosecution no cause of action. And we do know that it is common for police in Boston, N. York, &c., to destroy scurrilous prints; and we think the loss of characters by libel, and the loss of life by mobocratic prints, to be a greater loss than a little property, all of which life alone excepted, we have sustained, brought upon us by the most unprincipled outlaws, gamblers, counterfeiters, and such characters as have been standing by me, and probably are now standing around your Excellency; namely those men who have brought these evils upon us.

We have no knowledge of men's being sworn to pass our city, and upon the receipt of your last message the Legion was disbanded, and the city left to your Excellency's disposal.

How it could be possible for us now to be tried constitutionally by the same magistrate who first issued the writ at Carthage we cannot see, for the constitution expressly says no man shall twice be put in jeopardy of life and limb for the same offence, and all you refer to have since the issue of the habeas corpus been complied with for the same offence, and tried before Daniel H. Wells, justice of the peace for Hancock county, and after a full investigation were discharged; but notwithstanding this we would not hesitate to stand another trial according to your Excellency's wish, were it not that we are confident our lives would be in danger. We dare not come. Writs, we are assured, are issued against us in various parts of the country; for what? to drag us from place to place, from court to court, across the creeks and prairies, till some blood-thirsty villain can find his opportunity to shoot us. We dare not come, though your Excellency promises protection; yet at the same time you have expressed fears that you could not control the mob, in which case we are left to the mercy of the merciless. Sir, we dare not come, for our lives would be in danger, and we are guilty of no crime.

You say 'it will be against orders to be accompanied by others' if we come to trial; this we have been obliged to act upon in Missouri; and when our witnesses were sent for by the court, (as your honor promises to do) they were thrust into prison, and we left without witnesses. Sir, you must not blame us, for 'a burnt child dreads the fire,' and although your Excellency might be well disposed in the matter, the appearance of the mob forbids our coming; we dare not do it.

We have been advised by legal and high minded gentlemen from abroad, who came on the boat this evening, to lay our grievances before the federal government, as the appearance of things is not only treasonable against us, but against this State on the part of Missouri, unless the same has been requested of Governor Ford by the federal government. And we suppose your Excellency is well aware by this time that the mass meetings of the county declared utter extermination to the Mormons, and that the Legion was not called out until complaints were made to the Mayor, and the citizens were afraid of their lives, and losing their confidence in the authorities of the city, and that nothing on the part of the city authorities has been wanting, legally and judiciously, to allay excitement and restore peace. We shall leave the city forthwith to lay the facts before the General Government, and as before stated the city is left open and unprotected; and by every thing that is sacred, we implore your Excellency to cause our helpless women and children to be protected from mob violence, and let not the blood of innocence cry to the heavens against you. We again say, if any thing wrong has been done on our part, and we know of nothing, we will make all things right if the government will give us the opportunity. Disperse the mob, and secure to us our constitutional privileges; that our lives may not be endangered when on trial.

I remain, most respectfully,
Your Excellency's humble servant,
JOSEPH SMITH, Mayor,
and Lieut. Gen. N. L."

It appears that the Governor, on arriving at Carthage, ordered the entire mob into service, adopted the lies and misrepresentations circulated against us by our enemies as the truth,

turned Supreme Court, and decided on the legality of our municipal ordinances and proceedings, which is the business of the judiciary alone. He charges us in his letter, based upon the most cursed falsehoods, with violations of law and order, which have never been thought of by us. He treated our delegates very rudely; my communications that were read to him were read in the presence of a large number of our worst enemies, who interrupted the reader at almost every line with "that's a damn'd lie," and "that's a God damn'd lie." He never accorded to them the privilege of saying one word to him only in the midst of such interruptions as "you lie like hell" from a crowd of persons present; these facts shew conclusively that he is under the influence of the mob spirit, and is designedly intending to place us in the hands of murderous assassins, and is conniving at our destruction; or else that he is so ignorant and stupid that he does not understand the corrupt and diabolical spirits that are around him.

Elder John Taylor gave the following account of his interview with the Governor:—

"After waiting the Governor's pleasure for some time we had an audience; but such an audience! He was surrounded by some of the vilest and most unprincipled men in creation; some of them had an appearance of respectability, but many of them lacked even that. Wilson, and I believe William Law were there, Foster, Frank and Chauncey Higbee, Mr. Marr, a lawyer from Nauvoo; a mobocratic merchant from Warsaw, Joseph H. Jackson, a number of his associates, and the Governor's secretary, in all some fifteen or twenty persons, most of whom were recreant to virtue, honor, integrity and everything that is considered honorable among men. I can well remember the feelings of disgust that I had in seeing the Governor surrounded by such an infamous group, and on being introduced to men of so questionable a character; and had I been on private business, I should have turned to depart, and told the Governor that, if he thought proper to associate with such questionable characters, I should beg leave to be excused, but coming, as we did, on public business, we could not of course consult our private feelings.

We then stated to the Governor, that in accordance with his request, General Joseph Smith had, in response to his call, sent us to him as a committee of conference; that we were acquainted with most of the circumstances that had transpired in and about Nauvoo lately, and were prepared to give him the information; that moreover we had in our possession testimony and affidavits confirmatory of what we should say, which had been forwarded to him by General Joseph Smith; that communications had been forwarded to his Excellency by Messrs. Hunter, James and others, some of which had not reached their destination; but of which we had duplicates with us. We then in brief related an outline of the difficulties, and the course we had pursued from the commencement of the troubles, up to the present, and handing him the documents, respectfully submitted the whole. During our conversation and explanations with the Governor, we were frequently rudely and impudently contradicted by the fellows he had around him, and of whom he seemed to take no notice.

He opened and read a number of the documents himself, and as he proceeded, he was frequently interrupted by—"That's a lie!"—"That's a God damned lie!"—"That's an infernal falsehood!"—"That's a blasted lie," &c.

These men evidently winced on an exposure of their acts; and thus vulgarly, impudently and falsely repudiated them. One of their number, Mr. Marr, addressed himself several times to me, while in conversation with the Governor. I did not notice him until after a frequent repetition of his insolence, when I informed him that my business at that time was with Governor Ford; whereupon I continued my conversation with His Excellency.

During the conversation the Governor expressed a desire that Joseph Smith and all parties concerned in passing or executing the city law in relation to the press, had better come to Carthage, that however repugnant it might be to our feelings, he thought it would have a tendency to allay public excitement and prove to the people what we professed, that we wished to be governed by law.

We represented to him the course we had taken in relation to this matter, our willingness to go before another magistrate, other than the municipal court; the illegal refusal of our request by the constable, our dismissal by the municipal court, a legally constituted tribunal, our subsequent trial before Esq. Wells at the instance of Judge Thomas (the circuit judge) and our dismissal by him. That we had fulfilled the law in every particular; that it was our enemies who were breaking the law and, having murderous designs, were only making use of this as a pretext to get us into their power.

The Governor stated that the people viewed it differently, and that notwithstanding our opinions, he would recommend that the people should be satisfied.

We then remarked to him, that should Joseph Smith comply with his request, it would be extremely unsafe, in the present excited state of the country to come without an armed force; that we had a sufficiency of men and were competent to defend ourselves; but that there might be danger of collision, should our forces and that of our enemies be brought in such close proximity.

He strenuously advised us not to bring any arms, and pledged his faith as Governor, and the faith of the State, that we should be protected, and that he would guarantee our perfect safety.