

# UTAH'S LEGISLATIVE BUSINESS IN WASHINGTON.

HON. JOS. A. WEST'S SUCCESSFUL EFFORT FOR THE LEGISLATORS' PAY.

WASHINGTON, D. C., April 20, 1886.

Hon. Milton J. Durham, First Comptroller, United States Treasury:

DEAR SIR:—The act of Congress of March 3d, 1875, making appropriations for the legislative, executive and judicial expenses of the government for a year ending June 30th 1876, and for other purposes, contains, on page 353, S. Stat. at large, vol. 17, the following provision:

"Territory of Utah.—For legislative expenses, namely: for compensation and mileage of members of the Legislative Assembly, officers, clerks, and others, \$23,400; this appropriation may be used under the direction of the Department of Justice to defray the judicial expenses of the Supreme and District Courts of said Territory, and the amount so used shall be reimbursed to said Territory out of the treasury of said Territory; and until such reimbursement shall be fully made, no member or officer of said Legislative Assembly shall be entitled to any compensation or allowance of any money of the United States."

What appropriation "may be used under the direction of the Department of Justice to defray the judicial expenses of the Supreme and District Courts of said Territory?" Manifestly the \$23,400, and no other. Congress made the specific direction in regard to that particular appropriation. It was dealing with the then present existing facts, and took no account of the future. The whole context shows this to be true. Observe the language: "And the amount so used"—that is, the amount "so used" of the \$23,400—"shall be reimbursed to said Territory"—that is, to that particular appropriation—"out of the treasury of said Territory." Then follows the prohibitory language of the act, namely: "And until such reimbursement shall be fully made, no member or officer of the Legislative Assembly shall be entitled to any compensation or allowance out of any moneys of the United States." The members and officers of the "said Legislative Assembly"—that is, of the particular Legislative Assembly for the expenses of which Congress was then appropriating.

It is a well settled principle of law that the last act of a legislative body must prevail, and that all acts, or parts of acts, that in any sense conflict with it, if not specifically repealed, are repealed by implication. One Congress might enact a law (though its legality would be doubtful) providing that no future Congress shall appropriate money for a given purpose, yet if a succeeding Congress should so appropriate, its act would be perfectly competent and valid, and the act of the former Congress would be repealed by implication, if indeed it ever had any legal force. In the same manner one Congress might attach a certain condition to its appropriation bill and so word it as to make it applicable to future appropriations for the same purpose; but if a succeeding Congress should ignore the conditions thus imposed, and make a straight appropriation without any such conditions, as was done in appropriating for the legislative expenses of the last or twenty-seventh session, the present case, the conditions imposed by the former Congress would not apply, being either repealed by implication or void *ab initio*. Hence, even should the opinion obtain that the phrase "said legislative assembly" refers to all subsequent assemblies and not alone to the Twenty-second, the absence of this condition from all subsequent appropriation bills for like purposes repeals it by implication, if indeed it was ever valid. Were it otherwise the members of one Congress might so hamper a succeeding Congress as to limit and measurably destroy its independent powers of legislation. Or, applying another reasoning:

This appropriation was made on the 3d of March, 1875, for the legislative expenses of the Territory of Utah for the year ending June 30th, 1876, and as the law only provided for one session of the Assembly between those dates namely—the Twenty-second, it had specific reference to that Assembly, and to that only. In other words, had Congress inserted the number of the session for which the appropriation was made, its intentions, as conclusively disclosed by this state of facts, could not have been more plainly or correctly expressed. If, therefore, we insert the number of the session, before the words "Legislative Assembly," so that it will read: "Territory of Utah: For legislative expenses, namely: for compensation and mileage of members of the Twenty-second Legislative Assembly," etc., it will at once be seen that the claim, "until such reimbursement shall be fully made no member or officers of said Legislative Assembly shall be entitled to any compensation," etc., means that until such reimbursement shall be fully made, no member or officer of the Twenty-second Legislative Assembly shall be entitled to any compensation, and not that the officers and members of any or all of the succeeding assemblies shall be so deprived until the government is so reimbursed. The pronoun said has for its antecedent the phrase "Twenty-second Legislative Assembly," the first word of which is "Legislative Assembly," from the state

of facts then existing, and the last two are expressed in the text itself."

No subsequent legislation has been enacted on the subject of reimbursing in the manner here discussed the moneys paid by the United States for the expenses of the Territorial courts of Utah. Appropriations were made for the legislative expenses of the Territory of Utah for the years 1878, 1882, 1884 and 1886, without any restriction whatever. The amounts so appropriated for 1878, 1882, and 1884 were paid as a matter of course. The money could not have been "used under the direction of the Department of Justice to defray the expenses of the Supreme and District Courts" of Utah, because Congress did not direct it to be so used. It was appropriated for a specific purpose, namely: "For compensation and mileage of members of the Legislative Assembly, officers, clerks and others," and no other use of it would have been legal.

The history of the legislation of 1875 by Congress, must be taken into consideration in order to understand the object thereof. The act of June 23rd, 1874, entitled "An act in relation to courts and judicial officers in the Territory of Utah," deprived the probate courts of the Territory of criminal jurisdiction, and conferred the same upon the district courts, and extended the functions of United States judicial officers. The judiciary expenses were enormously increased thereby. The fees of United States Commissioners, of United States Marshal, and District Attorney were largely increased. These officials were anxious to have their emoluments made secure and certain. Therefore they secured the provision in the act of Congress making appropriations for legislative executive and judicial expenses for the fiscal year ending June 30, 1876. They were concerned to have their pay immediately. They did not want to wait till the Legislative Assembly met on the second Monday in January, 1876, and made appropriations. The act of June 23d, 1874—commonly known as the Poland law—was enacted after the Legislative Assembly of the Territory of that year had expired. The appropriation of \$23,400 was immediately transferred, and the judicial expenses paid therefrom to the amount of \$18,436.23.

The legislative, executive and judicial appropriations for the fiscal year ending June 30th, 1877, provided for the judicial expenses of the Territory of Utah, including the fees for the United States judicial officers in Territorial cases. And for each succeeding year like appropriations have been made. The proper place for the provision for reimbursement by the Territory of the amounts so paid by the United States, was in connection with the appropriations therefor, and in the act of 1879 this was done. But in no other instance has it been done. All subsequent acts making appropriations therefor have been silent on the subject.

The appropriations for the per diem and mileage of members of the Legislative Assembly have been unconditionally made, as before stated, for the seasons of 1878, 1882, 1884 and 1886, and for the three former sessions paid without question. You will remember that when Senator Cullom proposed to direct, by a Senate resolution, that the pay of members for the session of 1886 be withheld, objection was made that it was not competent for one House of Congress to order an unconditional appropriation to be withheld; that Senator Edmunds expressed a doubt as to the power of Congress to do direct. Senator Cullom thereupon withdrew his resolution, and introduced a bill which was referred to the committee on expenditures of public moneys, where it sleeps.

Surely if one House of Congress has not power to direct that an appropriation made for a specific purpose shall be withheld, an accounting officer of the Treasury Department has not the power to direct that it shall be used for a purpose entirely different from the one for which it was made.

We claim that we are entitled to compensation on each of the following grounds, to wit:

First, because the text of the act of 1875 only authorized that \$23,400 may be used under the direction of the department of justice to defray the judicial expenses of the supreme and district courts of said Territory.

Second, because Congress did not authorize any of the \$23,000 appropriated by the act of 1885 for the expenses of the Legislative Assembly of the Territory of Utah for the year 1886 to be used for any other purpose than the specific one for which that amount was appropriated.

Third, because the last act of a legislative body takes the precedence over all former acts.

Fourth, because an appropriation is of that character of legislation that one session cannot lawfully prescribe conditions governing the appropriation bills of future sessions.

Fifth, because an unconditional appropriation of money for a specific purpose repeals any condition previously imposed.

Sixth, because your predecessors have, by their official acts, recognized the right of the Legislative Assembly of the Territory of Utah to compensation since 1876.

Seventh, because the service was rendered with the express understanding on our part that we were to be paid as our predecessors had been.

Upon any of these separate grounds we feel assured that you cannot justly do otherwise than render us a favorable decision granting the law

payment of the compensation earned by us, and allowed under the law of Congress.

I would therefore, in conclusion, respectfully ask that the per diem of the members and officers and the mileage of the members of the 1886 Legislative Assembly of the Territory of Utah be paid in accordance with the services rendered, as per the properly certified pay rolls of the assembly, which will be laid before you on learning your favorable decision of this case.

Thanking you for the very patient bearing you have accorded me and for the many courtesies extended.

I am, sir, very respectfully,  
Your obedient servant,  
JOSEPH A. WEST,  
Member of the late Legislative Assembly of the Territory of Utah.

HON. J. T. CAINE AND J. A. WEST ASK FOR AN EXTRA SESSION.

Hon. L. Q. C. Lamar, Secretary of the Interior, Washington:

The necessities which demand an early session of the Legislative Assembly of the Territory of Utah, briefly stated, are as follows:

The entire appropriation for the Supreme and District Courts of the Territory, amounting to \$70,836.74, and including the pay of jurors, clerks, witnesses, reporters, etc., was vetoed by Governor Murray, leaving the courts without money with which to prosecute offenses against the laws of the Territory. Should this condition of affairs continue until the regular session of the assembly two years hence, the evil consequence to society would be very great. Criminals would go unwhipped of justice, the lawless element would continue unchecked in all its depredations, life and property would be unsafe in many sections, and a state of comparative anarchy would result.

The appropriation for the completion of the new University building and the maintenance of this most worthy and indispensable institution, one of the oldest in the Territory, including the appropriation for education of deaf mutes therein, amounting in all to \$60,000, was also vetoed. Some years since it became apparent that a new building must be erected to meet the growing necessities of the institution and plans were approved and the work begun under Legislative authority. A sufficient amount not having been appropriated, however, to complete the building, to meet an imperative and immediate necessity its chancellor and board of regents borrowed money and became individually pledged for its payment to put the building in a suitable condition for temporary occupancy. This indebtedness is long since past due and should be immediately met and a further amount appropriated for the completion and furnishing of the building.

All the appropriations for the Territorial Insane Asylum, amounting to \$45,000, were vetoed, leaving the institution in a most deplorable condition. Being but recently completed, it was in debt \$20,000, for most of which amount its directors became individually responsible. One note of \$10,000 given by them until the Legislature should meet and appropriate became due early last month, and immediately following the failure of the appropriation bill it was protested and the directors notified to make immediate payment. Being poor men, it will work very great hardship to them unless relief can soon be had. Under a recent statute, one-half the cost of maintaining the indigent insane, who constitute a large percentage of the inmates, is chargeable to the Territory. This cost for the years 1886 and 1887 was estimated at \$25,000 and inserted in the general appropriation bill, which was vetoed at the close of the session. As a consequence the asylum is completely paralyzed. Unless relief can soon be had, this most worthy and much needed institution will have to be closed, and its inmates, now numbering over 50, be turned loose upon the community to seek care and sustenance from whatever source it can be obtained, for they cannot be kept to starve. The directors can borrow no more money, and the credit of the institution, through the failure of the last appropriation bill, is irretrievably gone.

The salaries of all Territorial officers, including the Territorial Superintendent of District Schools, Territorial Auditor, Treasurer and Librarian, rents of offices, etc., are unprovided for. Thirty-three thousand eight hundred and fifty dollars worth of greatly needed internal public improvements, such as roads, bridges, etc., are stopped and much needed legislation, made necessary by the rapid growth of the Territory, is imperatively demanded.

Hoping that the administration will be able to secure an early session of the Legislative Assembly, by which means the Territory may be relieved of its present embarrassments, and that the bill may not therefore be delayed or encumbered by any Utah legislation now pending in Congress.

We are, sir, very respectfully,  
Your obedient servants,  
JOHN T. CAINE,  
JOSEPH A. WEST,  
Member late Legislative Assembly, Territory of Utah.

COASTING.  
Sleight Riding in Summer is a novelty in Utah. The Coasting Rink will be in operation on Decoration Day at Cal-tan.

# GOVERNOR WEST AT THE PENITENTIARY.

He Holds an Interview with the Brethren.

He Makes Overtures that are not Accepted—Religious Convictions Cannot be Surrendered.

Yesterday afternoon Governor West, accompanied by Marshal Ireland, Secretary Thomas, Mr. Adam Patterson (court reporter), Mr. W. C. Hall and Mr. Webb, drove out to the Penitentiary. The object of the visit and what occurred at the prison are fully explained by the following account of the matter, from the pen of Mr. Patterson:

Upon arrival at the Penitentiary the party were received by Warden Dow and conducted into one of the apartments of the building outside the wall, and Apostle Lorenzo Snow, at the request of Governor West, was brought into the room, when the following conversation occurred:

Governor West.—Mr. Snow, I suppose you are advised of the action of the Supreme Court in your case?

Snow.—Yes, sir; I have heard they concluded they have no jurisdiction in my case.

Governor.—Of course, you are aware that that determination by that court makes final the decision of that case by the Supreme Court here?

Snow.—I suppose so.

Governor.—Under those circumstances, of course, that is now the law, because it is the decision of the highest judicial tribunal to which it could be submitted, and I conceived that it would be a very opportune time to call and submit to you a proposition, which, in conjunction with Judge Zane and Mr. Dickson, we have thought advisable to make, in order to show you and the people of the Territory that they are mistaken in believing that those charged with the execution of the laws in the Territory are animated by any spirit of malice or vindictiveness towards the people who are in the majority in the Territory; that on the contrary their only wish and only desire, one which is nearest to their hearts, is to have the people of the Territory obey and respect the law. Upon consultation with Judge Zane and Mr. Dickson, and they supporting the view that I have suggested, I have come to say to you and your people here that we would unite in a petition to the Executive to issue his pardon in these cases upon a promise, in good faith, that you will obey and respect the laws, and that you will continue no longer to live in violation of them.

Snow.—Well, Governor, so far as I am concerned personally, I am not in conflict with any of the laws of the country. I have obeyed the law as faithfully and conscientiously as I can thus far, and I am not here because of disobedience of any law. I am here wrongfully convicted and wrongfully sentenced.

Governor.—Yes, but that is from your standpoint. Of course, that is a question—

Snow.—No, no. Perhaps you misunderstand me. I don't mean particularly and exclusively the Edmunds law, I mean the law of the land that I consider supreme—

Governor.—The law is actually what the court says it is. If you are here under a conviction of that kind, and your intention was to obey the law, as you say you have done it, then you can sacrifice nothing if you promise and agree to obey the law in the future; you then rid yourself of a conviction which you say is wrongful, and you protect yourself from a future prosecution if you obey the laws.

Snow.—Well, but Governor, why should this be required of me, inasmuch as I certainly have not as yet disobeyed the law. The law has been wrongfully and illegally administered in the cases of many of us in the Pen.

Governor.—But we have to submit to the law as administered by its agents and properly constituted authorities. No one of us, as a citizen, has a right to put his opinion against that determination. We are bound to submit to the construction of the laws which the court gives. We cannot adopt our own construction and follow that, because the decisions of the courts constitute what the law is. You are too intelligent a man to have asked me the question whether you should be required to make such a promise as that, because you know very well you have taught and believed that certain practices are right which the law has put its ban upon. It has been said by our law-making power that it is not right, and not only that it is not right, but that such practices cannot be tolerated in this land, and that punishment will follow a violation of it.

Snow.—I defy any man to come forward and testify I have taught any person to disobey the laws. There is no person can come forward and testify to that.

Governor.—That has been the teaching of the body that you belong to.

Snow.—It has been in the past, but it has not been with me in the present.

Governor.—I am not talking about the past. Of course, I don't care to discuss that. I say you are here under a conviction in a court for a past offense, and I come to propose that the Federal officials unite in asking the President for pardon for you and others, to relieve you from any punishment you may have incurred if you, in good faith, for the future submit yourselves to the laws as interpreted and construed by the courts.

Snow.—Well, now, Governor, of course, there is no use wasting time on this. If you—

the principle of plural marriage I will answer you at once.

Governor.—No; that is not the question. The question I ask you is, will you agree, in good faith, sincerely, in the future to respect and obey the laws as interpreted by the courts, which I and every other good citizen ought to do and must do, and failing to do, will incur punishment.

Snow.—I was once asked that same question at the First District Court at Ogden, and I expressed to the court my wishes that I should not be required to answer that question. I considered it a question that they had no business to ask. I had obeyed the laws and was convicted illegally and wrongfully, and I did not consider it was a personal question as to the future.

Governor.—I understand that. That was a question that was asked you in court and you had a right to decline to answer. Now, I come with the earnest desire to save misery and trouble to the people with whom I am to be associated officially, and I have it very near to my heart, if possible, to relieve the people here of a great deal of unnecessary suffering, because I am satisfied that all this suffering, so far as the protection of the peculiar institution, which you have established is concerned is useless; that it will do no good whatever—not one particle—and that all the sacrifices which you make and all the suffering that you endure will go for naught. I come with that spirit and with those motives.

Snow.—Yes, I presume so; but my views are entirely different from that, right directly opposite—the result will not be the one that you anticipate. I speak with knowledge, and you speak with your opinion. I speak in reference to knowledge and am perfectly convinced that the result will be widely different from that which you state. No doubt there will be a great deal of suffering, but I, as one—and I presume it is so with the great majority of this people—are ready to take the consequences. We believe in a certain principle, and that principle is dear to our hearts and we are willing to suffer as the ancients did. We honor the law administered rightfully.

Governor.—You have come to the question exactly which I was just going to suggest to you. That being your state of feeling, that being your avowed course of action, you ought then to do the officials in this Territory the justice to say that they are not to blame for this state of affairs; that your own conduct and your own position puts you in disobedience to the laws; that while you suffer the suffering is incurred by your action and not by any spirit of malice or any desire upon the part of the Government or those who represent it, to do you injury or to cause this suffering; because you see my object and purpose here now, is to unite in an effort to relieve you, but you, by the position you take, preclude any such position being taken; you voluntarily and obdurately place yourselves in this position. Therefore, common fairness should require you not to say and not to publish to the world that you are being persecuted, hounded, maliciously and vindictively pursued by the Federal officials who are entrusted with the administration of the laws.

Snow.—Oh, no more so than Jesus, Christ and the Apostles. They had these same things to suffer and practiced the same gospel; and we expect that inasmuch as we have espoused the same religion and the same principles that they proclaimed, and for which they lost their lives, that we will have to suffer, and we are willing to do it.

Governor.—You are not being prosecuted for opinion's sake.

Snow.—Oh, no more than the Roman Empire prosecuted the apostles for opinion's sake. They rendered themselves in obedience to the laws of the country they were in. It was the law that condemned them to death, and it was the Jewish law that condemned Jesus.

Governor.—You are getting off the question and getting upon a question that is so wide that we would have to lengthen our lives to discuss it. I came here with simply one purpose and desire, which was, if I could possibly, by any effort on my part and with the concurrence on your part of obedience to the laws, to relieve you from any suffering. You must look up this matter just as it stands. The courts have construed this law, and their construction of it is the law, and we have no right to say anything else. And when you get out, if you continue the course you have pursued, do the same acts again, it will simply be a temporary relief from here—back you will have to come.

Snow.—I expect so. I presume that would be the case.

Governor.—Well, now you are suffering and you are causing others to suffer, and you are injuring the prosperity of the Territory, and all for no good purpose. You cannot accomplish anything by it. That will not repeal the laws nor will it benefit you in any way because in prison here you don't enjoy the liberty that is guaranteed by the laws to every law abiding man; you cannot have the pleasures of home which are protected by the law and you are suffering here without benefit.

Snow.—Exactly. But I have no confidence in the courts; even if I was to make a promise I have no idea in the world that the courts would administer us justice. Let them first administer us justice and administer the laws correctly; and then we will see.

Governor.—Yes, but that is your own individual opinion, that the laws are not administered correctly.

Snow.—Is it your individual opinion that they are?