

THE GRAND JURY.

Judge Boreman's Charge.

On Wednesday morning 13th inst., in the Third District Court, the following were empanelled a Grand Jury for the October Term, Horace Bliss being appointed foreman by the Court:

Lorenzo Pettit Jacob Moritz
Augustus Pollock Edward Morgan
Stephen Hunter George E. Reid
W R Jones Alfred Lemmon
D W Rensch James G. Frey
Jacob Engler Joseph Smith
Joseph Kierman Andrew Kloppenstein
Horace Bliss

After the Jury were sworn, the Court addressed them as follows:

GENTLEMEN OF THE GRAND JURY:

You are now empanelled as a grand inquest to investigate crimes and misdemeanors in the Third Judicial District of the Territory of Utah. You have each taken a solemn oath, without evasion or mental reservation, that you will conscientiously investigate crimes alleged to have been committed against the statutes of the United States and the laws of this Territory; and as you have taken this solemn oath you can not shake it off, you can not throw the responsibility upon another. The laws of your country and of your God hold you responsible for your acts. I hope, therefore, that you have well considered the responsibility which rests upon you, and that you are ready and willing to assert your manhood and to show your individual independence by obeying, in letter and spirit, the oath which you have just taken. That oath requires you to act fearlessly, manfully, honestly and impartially; to know neither friend nor enemy, and to be controlled neither by fear, favor nor affection.

You are not called upon to decide what the law is, that is not your province; your oath does not require or permit that; but the Court and the prosecution will instruct you in regard to the law. You are to examine facts, and facts only; you are to investigate alleged offences against both the United States and the Territory. The District Attorney, Judge Carey, will give you his advice and direction in such matters as may come before you. He is authorized to visit the Grand Jury room to confer with you in regard to matters before you; but he can not ask questions of you, and neither he nor anyone else not a grand juror should be present when a vote is taken on any question. Nor should any juror express any opinion in regard to matters before him in the presence of the prosecuting officer or any other person.

You are called to act as a grand jury under the laws of Congress, not under the Territorial acts. The General Government caused the enactment of this law for the reason that the laws, under the Territorial acts, could not be enforced. Crimes could not be punished, criminals could not be dealt with in any way as their cases required, therefore Congress had to step in, and has given us a law to punish criminals. But it depends very much upon you whether that law shall be enforced or not, or whether Congress shall be asked to give us a still better law. And in doing this the Government is not prompted by any spirit of persecution as some would have you believe; nor will you find any federal official in this Territory who desires or would countenance any such persecution of the people of this Territory. Friendly to the Government, many of the people here have come from various parts of the Union, as they had a right to do, and they desire only that the laws be respected here as elsewhere, that crime be put down here as elsewhere, and that the law be not allowed to stand as it has done for years. They want security of life here, a higher standard of morals and equal and exact justice for all. And when men talk to you and tell you that the government and its friends desire to persecute any body here because of their religious opinions they well know that their statements are not true, and they well know that all that is desired is that crimes shall not continue to go unwhipped of justice, and that, as to men's religion, the government has nothing whatever to do with it.

I shall now note and call your attention to some of the more im-

portant United States statutes against crime. The United States owns all the land of the Territory to which it has not already given the title to individuals; and yet we find that men, all over the Territory, for years past, have been inducing other men to go and commit perjury, that they might by that means swindle the government out of lands they had no right to. Such men ought to be in the penitentiary. It is within your oath to investigate all such cases; and the same may be said with regard to counterfeiting. It is likewise according to your oath to examine every case of the alleged violation of the United States revenue law, and there are such cases in this district, I am informed; and it will be your duty to examine them under the direction of the District Attorney. It becomes also your duty to investigate into the matter of illegal voting, if any have taken place in this district. There is no law of the Territory against illegal voting; in fact, the law of the Territory seems to be in such a shape that fraud is not punished under it at all. But you are acting under an act of Congress.

The United States statute against polygamy or bigamy will also require your attention. That act was passed, as you are aware, in 1862, and, as is well known, it has been in existence and in force from that time to the present. Yet it has not been respected, and every possible means has been used to prevent its enforcement. And even to-day we hear men proclaim that this crime cannot be put down, and that they propose to carry it on. Well, these men are only heaping upon their own heads the penalties which are coming upon them; they are only heaping upon their heads and the heads of their people—the people whom they instruct to commit this crime—the punishments which are bound to come. These leaders, when they state that this is not a crime, know that they state what is not true. This law has been on the statute book, and this has been a crime since 1862; and these men do not deserve any other than the severest punishment. And while they teach the people to commit crimes which they know will, sooner or later, send them to the penitentiary, if you watch the course of these very leaders, you will find that while they teach these things boldly, the very moment they come inside of a court room and are confronted with the law, they will turn round and swear that they themselves are not living in polygamy; they deny their own faith. This is not the part of the true martyr when he is subjected to persecution; a true martyr will never deny his faith, but he will stand up and claim the correctness and rightfulness of it under all circumstances, and when he finds that he is going to be punished he will not even then deny it.

In thus teaching these doctrines we see the enormity of this outrage upon a confiding people, thousands of whom have trusted and confided in these men for years past, and they have been purposely deceived. Their leaders have been bold in asserting the lawfulness of plural marriage for many years, but now, as I say, when they are brought face to face with the law in court, they do not dare to say so and honestly plant themselves on the ground they stand on, but they deny its legality and repudiate the practice. Of all places upon earth where a man should adhere to that which he believes to be true is in a court of justice, whatever the circumstances may be, because the business of the court is to investigate facts, and the truth and nothing but the truth is what the court is after.

But as to whether any of the leaders maintain the legality or illegality of polygamy, no matter, it is recognized as such by the law, which you have sworn to enforce, and they can not claim it to be a part of a man's religion, for there is nothing in it which gives glory to God or elevates humanity; and it is nowhere taught that crime is a religious duty; and polygamy or bigamy, whichever you choose to call it, is not only a crime, but it is a loathsome ulcer on the body politic, degrading individually to those who practise it and to the entire society where it exists. This is known to you, known to you all; you see its polluting effects on every hand. The women of Utah, as I believe, are more oppressed and degraded than the women anywhere else in the United States. Their moral sensibilities, owing to the influence

of this institution, have become blunted and brutalized, and their children are also less endowed with the finer feelings of humanity. Some men, no doubt, enter polygamy or bigamy from conscientious convictions, but such cases are rare, and it prevails most among the most ignorant. Polygamy does not bear the test of the light; it thrives in the midst of ignorance, and hence you see the bitterest hostility to free schools and the general advancement of the people in this Territory. This ought not to be. The people should be educated and elevated, instead of being degraded by such institutions.

Some pretend that the law against polygamy is unconstitutional. If they are really honest and think so, they will not seek to clog an investigation, or to avoid an indictment and trial, but will admit the fact, and plant themselves on that ground which they are confident is tenable, and take the case to the Supreme Court of the United States and have it settled.

The government of the United States is the mildest ever yet instituted on earth, and is the legitimate outgrowth of the Christian civilization of our day; and one of its grandest and noblest features is its hostility to any religion being established by the state, and its assurance of the utmost religious freedom to all who live within its domain. The people of the United States are, as I have said, hostile to polygamy because it is a crime, a most degrading crime, fit only for the darkest and far away days, anterior to the dawn of Christian civilization. The Constitution of the United States is opposed to any established religion, opposed to a union of church and state in Utah and anywhere else in the whole Union, and the people will not rest so long as such a vile growth exists anywhere within the broad domain of this Union. The people are also opposed to murder and all other crimes, no matter by what name they may be known. And I will here state that the civilized world recognize it as a principle that civil governments alone have the right to punish men for crimes; they alone have the right to take life, to send to the penitentiary, and anything of this kind is only done by civil governments, and the right to exercise such authority is not accorded to any other power, no matter what doctrines we may hear proclaimed, and cannot be recognized by you in the jury box, because you are sworn to enforce the laws of the United States and of the Territory of Utah.

The people of the United States will go as far in supporting the people of Utah in their religious rights and privileges as they would those of any other section of the Union; and the day is not far distant when polygamy and other crimes perpetrated here in the name of religion will be buried in the past, and the masses of the people of Utah will see that the government and people of the United States are their truest friends. They have no bitterness against the Mormon people, and they would gladly see them prosper except as to polygamy, union of church and state, blood atonement, and such like things. The people of no country in the world enjoy so much religious freedom as the American people. It is the love of this largest and most absolute religious freedom, and the generous Christian charity of the people of the United States which have so long delayed the putting down of polygamy in Utah; it is not owing to cowardice, as some have supposed, but is due solely to the long forbearance of the nation to a people whom they desire to see righted in these matters. The government don't desire to see anybody hung or go to the penitentiary; the people of the United States do not desire these things, they only want crime stopped. The people of the United States have hoped and believed that the people of Utah themselves would see the enormity and hideous character of these crimes, and that they would rise up against them and put them down. They have borne with these errors for a generation past; but there does not seem to have been the least desire to crush them out in years past, hence the law I speak of was enacted, and it depends upon grand and petit juries whether this law shall be considered as sufficient or not; if it is not, it is just as certain as that the sun rises that Congress will give us one that is entirely effectual in putting down crime. It is no use for the

people to hesitate in matters like this, because it is certain to come, and the people ought to squarely and honestly enforce the law as it exists now, without requiring any further enactment. The government has now put the matter into your hands. You are part on one side and part on the other, and the government gives the people of Utah Territory one more trial of this matter. You, doubtless, will do your duty, as you have solemnly sworn to do; otherwise it will only give cause for further legislation much more rigorous than that already in existence. The government and the people of the United States are determined to put polygamy down, and to assert their supremacy. It is nonsense for a small handful of people in the mountains to fight against forty millions of people upon a question like this, which has no moral stamina in it. The government is in earnest, and it will be as well for the people to realize this fact. The theory of American law is that society must be elevated, not dragged down.

I make these remarks, many of which would not be necessary in the States, but they are necessary here, because two-thirds of the people of this Territory are of foreign birth, or are the children of people of foreign birth, who have never been out of the Territory, and consequently are not acquainted with American ideas and principles. Utah has no statute upon marriage, and every plural marriage in the Territory is virtually a clandestine marriage; and as there is no statute on marriage and no ceremony is required, none need be proved, and generally the particularity that is necessary in proving marriages in the States, where there are laws in regard to marriage, is not required here, and, as I said before, no marriage ceremony is necessary to be found.

Now, gentlemen, I am plain with you. You know many men who are living in violation of the law against polygamy. You have sworn to indict in every case where the facts warrant, and it is your duty to make a searching examination into all cases that come before you. You know, as well as I do, that one charge made against the people of Utah is that they will swear they will do a thing and then not do it; they will swear to indict for any crime, but when it endangers any of their friends, or comes in conflict with what they consider the law ought to be they will perjure themselves. You must now show to the world whether this is true or false. Not one of you was required to sit in this jury box if you had any conscientious convictions against acting as a juror in the consideration of the class of crimes which were likely to come before you, but you have each and all sworn that you had no such scruples.

I now pass to the Territorial statutes, and to offences under them, such as murder, manslaughter and the like; these crimes will be given to you in detail by the prosecuting attorney. The various murders that have been committed in this district should be examined into by the Grand Jury, and if they find who are the guilty parties they should indict them.

Under the head of crime, after offences against the lives of persons, come robbery and cases of that kind, and numerous others which will be given to you in detail. Offences against chastity, morality and decency, such as lascivious cohabitation, will also require your consideration. If men and women, not being married, lewdly and lasciviously associate and cohabit together they should be indicted for lascivious cohabitation. These matters will also be given to you in detail by the prosecuting officer. If you know any cases of your own knowledge it is your duty to bring them before the grand jury.

Offences against property, such as arson, burglary, larceny, and cases of perjury and counterfeiting, also malicious mischief, such as the malicious maiming and killing, by poison or otherwise, of horses and other domestic beasts, should all be examined into.

Offences against the public health and peace will also need your attention, and will be given to you in detail by the prosecuting officer, who will also give you information if you desire it, upon any matters I may have overlooked.

The foreman of the jury is authorized to administer oaths to witnesses; and if you desire to summon witnesses, send their names to the

clerk and subpoenas will be issued; and if parties subpoenaed fail to appear, bring the matter to the attention of the Court, and they will be attached and brought before you. As soon as you meet elect one of your number clerk, to take down the testimony of the witnesses examined before you. Your oath requires you to keep your entire proceedings, as a grand jury, secret, not only to-day, but for all time to come, unless some competent court requires such testimony in connection with a case of perjury for instance, and then only such facts as concern the particular case under consideration. If you know of any of your number divulging to anyone what transpires in your deliberations, it will be your duty to indict him. You have no right under the oath you have taken, to talk to any one about what goes on in the Grand Jury room; and if any outside person seeks to influence you, no matter who it may be, if you bring the matter before the court he will be dealt with as required.

No person should be presented or indicted on account of any ill will, fear, favor or affection; neither should any one be left unpresented from similar motives. Grand jurors should be impartial, that is the only safety of society; any other course leads eventually to ruin. No man or woman should be punished unless facts prove them guilty; and when that is the case none should escape punishment.

You will be attended in your deliberations by one or more of the marshals, who will be near you to attend to such official duties as you may require of them. They are not to be in your room during the transaction of any business; no person, outside the grand jury, can be allowed there during the transaction of business, except an officer passing in and out in the discharge of his duty.

You will make your own adjournment from day to day, but cannot adjourn finally except by consent of the court. When you have disposed of a cause and found an indictment report to the court. No indictment can be found except by the concurrence of twelve of your number. Every indictment should be signed by the foreman. The names of the witnesses upon whose evidence the indictment has been found should also be endorsed thereon. The causes of parties out on bond should be examined into; and when parties are indicted their cases should be disposed of one way or the other, and not left hanging on for subsequent action.

The law of Congress requires you to examine all public prisons in the district, and you are entitled to free access thereto, and if necessary you can send for witnesses to aid you by their evidence. This act of Congress also requires you to examine every case of wilful, corrupt misconduct in office, by public officers of every description; and to do so you are entitled to free access to all official books. This applies to both United States and Territorial officers.

I hope and trust that in the discharge of your duties, you will, as free men, show your individual independence, and that you will fearlessly discharge the responsibilities devolving upon you.

I close this charge by assuring you that it shall be my duty as well as pleasure to aid you in every possible way required by law to further the object for which you have been called together.

J. L. Sprague was then sworn as bailiff, and conducted the jury to their room.

New Books.

From Dwyer's book store, we have received two more of the elegant little volumes recently issued, entitled "Ancient History From the Monuments," namely the History of Persia and the History of Egypt, the former from Cambyses I, between five and six hundred years before Christ to the Conquest by the Mahomedans in the 7th century of the Christian era; the latter gives an outline of the history of the land of the Pharaohs through all its various dynasties from the year 3,000 B. C., to 332 B. C., the period of its invasion and conquest by Alexander. Among the ancient nations none, perhaps, possess greater interest to the student of history than the two to which these volumes are devoted, and the leading points in their career so far as authenticated by the latest research are herein stated in a brief and interesting manner. They may be obtained at Dwyer's store at one dollar each.