

UTAH TERRITORY.

MESSAGE

OF

THE PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

In compliance with a resolution of the House, copies of correspondence relative to the condition of affairs in the Territory of Utah.

MAY 2, 1860.—Laid upon the table and ordered to be printed.

To the House of Representatives:

In compliance with the resolution of the House of Representatives of March 26, 1860, requesting "copies of all official correspondence between the civil and military officers stationed in Utah Territory, with the heads or bureaus of their respective departments, or between any of said officers, illustrating or tending to show the condition of affairs in said Territory since the 1st day of October, 1857, and which may not have been heretofore officially published," I transmit reports from the Secretaries of State and of War, and the documents by which they were accompanied.

JAMES BUCHANAN.

WASHINGTON, *April 27, 1860.*

DEPARTMENT OF STATE,
Washington, April 18, 1860.

To the President:

The Secretary of State, to whom was referred the resolution of the House of Representatives of March 26, 1860, requesting the President, if not incompatible with the public interest, to communicate to that House "copies of all official correspondence between the civil and military officers stationed in Utah Territory, with the heads or bureaus of their respective departments, or between any of said officers, illustrating or tending to show the condition of affairs in said Territory since the 1st day of October, 1857, and which may not have been heretofore officially published," has the honor to lay before the President a copy of the papers specified in the subjoined list.

Respectfully submitted.

LEWIS CASS.

List of accompanying documents.

1. Gov. Cumming to Gen. Cass, October 9, 1858.
2. Gov. Cumming to Gen. Cass, November 5, 1858.
3. Gov. Cumming to Gen. Cass, January 28, 1859.
4. Mayor and city council of Provo to Gov. Cumming, March 11, 1859.
5. Gov. Cumming to Gen. Cass, March 31, 1859, with the following enclosures :
 6. Petition of the citizens of Provo to city council, March 10, 1859.
 7. Petition of Provo city council to Judge Cradlebaugh, March 11, 1859.
 8. Reply of Judge Cradlebaugh to Provo city council, March 12, 1859.
 9. Rejoinder of Provo city council to Judge Cradlebaugh, March 15, 1859.
 10. Petition of the citizens of Spanish Fork city to Judge Cradlebaugh, (without date.)
 11. Memorial and petition of citizens of Utah Territory to Governor Cumming, March 22, 1859 ; and
 12. Copy of Gov. Cumming's note to Gen. Cass, transmitting the same, March 31, 1859.
 13. Gov. Cumming to Gen. Cass, March 31, 1859, with the following enclosures :
 14. Gov. Cumming to Gen. Johnston, March 20, 1859.
 15. Reply of Gen. Johnston, March 22, 1859.
 16. Copy of a letter from Gov. Cumming to Gen. Cass, March 25, 1859.
 17. Proclamation of Gov. Cumming, March 27, 1859.
 18. Gen. Cass to Gov. Cumming, May 2, 1859.
 19. Gov. Cumming to Gen. Cass, May 12, 1859, enclosing
 20. Copy of an order issued by Gov. Cumming to the territorial marshal, May 9, 1859.
 21. Gov. Cumming to Gen. Cass, May 19, 1859, enclosing
 22. Report of Marshal Kay to Gov. Cumming, May 16, 1859.
 23. Gov. Cumming to Gen. Cass, August 12, 1859, with the following enclosures :
 24. Copy of a letter from Mr. Smith to Dr. Forney, August 1, 1859.
 25. Copy of a letter from Dr. Forney to Gov. Cumming, August 2, 1859.
 26. Copy of a letter from Gov. Cumming to Gen. Johnston, August 3, 1859.
 27. Copy of a letter from Gen. Johnston to Gov. Cumming, August 5, 1859.
 28. Copy of a letter from the Secretary of War to Gen. Johnston, May 6, 1859.
 29. Gov. Cumming to Gen. Cass, August 19, 1859.
 30. Gen. Cass to Gov. Cumming, September 15, 1859.

31. Judge Eckels to Gen. Cass, September 27, 1859. Extracts transmitting
32. Presentment of the grand jury for the first judicial district of Utah upon the subject of their condition.
33. Gen. Cass to Gov. Cumming, December 2, 1859.
34. Official report of Gov. Cumming to Gen. Cass, February 2, 1860, enclosing
35. Copy of a letter from Mr. Caine to Gov. Cumming, February 1, 1860.
36. Gov. Cumming to Gen. Cass, March 1, 1860.
37. Gov. Cumming to Gen. Cass, March 22, 1860.
38. Gen. Cass to Gov. Cumming, April 18, 1860.

Governor Cumming to General Cass.

EXECUTIVE OFFICE,
Great Salt Lake City, U. T., October 9, 1858.

SIR: The affairs of this Territory continue to be of the most satisfactory character, so far as regards the sentiment and conduct of its inhabitants.

This city was recently the scene of some irregularities and occasional acts of violence, resulting from the influx of strangers in our midst. We now have a large and efficient police force, which has had the effect of restoring to the city its wonted quiet.

The merchants are reaping immense harvests of gold, the reward of their industry and enterprise. The prices that are asked and readily obtained appear to be enormous. This region must continue to be a valuable market for many years.

I would call the attention of the President to the fact that there is but one judge in the Territory, no district attorney, and no surveyor general.

By an act passed by the legislative assembly in December, 1857, it was proposed to disfranchise Carson and Green River counties and attach them to Great Salt Lake county. I have appointed judges of the probate court in those counties and instructed them to re-establish their organization. My instructions were promptly complied with in Green River, and I hope soon to hear that they have re-established the organization of Carson county and restored order in the community. I have received communications from many of the inhabitants of Carson valley, all of which indicate a desire to live under a government of laws; which wish I hope will be gratified in the spring, when we may perhaps see another judge.

A portion of the Indians of this Territory are insolent and inclined to commit acts of violence. With the prompt aid which has always been furnished by General Johnston when required of him, I entertain no apprehensions of any serious trouble from that source.

I regret to learn from the Indian agent that an Indian lost his life on the 3d instant, near Spanish Fork, at a time when arrangements

were being made to apprehend two Indians who had a few days before committed a brutal assault upon a woman and a little girl. The offenders were apprehended and will be tried for the crime.

Respectfully, &c.,

A. CUMMING,
Governor of Utah Territory.

Hon. LEWIS CASS,
Secretary of State.

Governor Cumming to General Cass.

[Extract]

EXECUTIVE OFFICE,
Great Salt Lake City, U. T., November 5, 1858.

SIR: The permanent inhabitants of this Territory continue to manifest a peaceful disposition towards the United States, and yield cheerful submission to its authority, and all classes of the community are busily employed in their various avocations.

The army contractors and merchants have discharged in our midst a large number of men, some of whom are turbulent, and occasionally commit acts of violence, which compels the city government to sustain a large and efficient police force.

The quartermaster will discharge five hundred (500) men in a few days, and I was pleased to learn from General A. S. Johnston that a large portion of that number would take contracts to cut wood, or form parties to return to the east or go to California.

In addition to those to be discharged by the quartermaster there will be about one thousand men discharged by the army contractors and merchants, who may arrive so late as to render it hazardous, if not impracticable, to return to the States this season.

Many of that class of persons are improvident, and if they remain here without employment may become a burden to the community, and, indeed, endanger its peace.

Realizing the importance of guarding against the evils which may arise from the influx of a large number of destitute men without employment, I shall adopt such means as seem most likely to guard them against suffering, and the community against violence and crime.

It is a subject of regret that certain persons who believe that the Mormons ought to be cured of their errors of opinion by violent remedies have inflamed the passions of the ignorant against the inhabitants, and several murders have been the result of this unwise and wicked practice. If the administration desire to preserve the present peaceable condition of society here, I cannot too strongly urge the necessity of avoiding the appointment to office in this Territory of men who believe it to be proper to wage a war of extermination against men who entertain errors of opinion on the subjects of religion and politics.

The enormous profits which have been realized upon their labor and capital by the merchants and contractors presents a dangerous

temptation to bad or unprincipled men to propagate the opinion that the peace now existing in this country is only a temporary lull of a seditious spirit, which will again be aroused and exhibit itself in open rebellion, and thus extend the period of their unparalleled success in sales and contracts. * * * * *

Very respectfully, &c.,

A. CUMMING,
Governor of Utah Territory.

Hon. LEWIS CASS,
Secretary of State, Washington.

Governor Cumming to General Cass.

EXECUTIVE OFFICE,
Great Salt Lake City, January 28, 1859.

SIR: The United States district court closed its session in this city on the 18th instant. The investigation of charges against James Ferguson, on motion to disbar, for alleged intimidation of a United States district judge, (Styles,) occupied a large portion of the time of the court. After patient inquiry, the jury returned a verdict of "not guilty," and Ferguson retains his place as attorney.

I am informed that the Hon. Charles E. Sinclair adjourned his court on the 18th instant because he considered that the legislative assembly had omitted to provide for defraying the expenses of the United States courts when engaged on territorial business.

The legislative assembly adjourned in this city, on the 21st instant, after having passed a fee bill for defraying expenses of the courts when employed in territorial business; also a bill regulating the qualifications of jurors, voters, electors, &c. They also passed several other important bills, among which is one for remodelling the judicial districts of this Territory. By the arrangements of this bill, the principal part of the population is divided between the districts assigned to Chief Justice Eckles and the Hon. Charles E. Sinclair. The western counties of Carson, Humboldt, and St. Mary's constitute a district, which is allotted to Judge Cradlebaugh. The remoteness of the latter district from the centre of population has had the effect of depriving its inhabitants of the advantages of district and other courts, and that region has been in a state bordering upon anarchy. This condition of things will, I trust, be remedied by the establishment of the Hon. John Cradlebaugh in his new district.

This new arrangement of the judicial districts has been made by the legislative assembly at my suggestion, and with the approval of Judges Sinclair and Cradlebaugh. Chief Justice Eckles is now absent from the Territory, and could not, therefore, be consulted.

The law just referred to is prospective in its operation, and will take

effect on the 1st of May, 1859. Judge Cradlebaugh will hold a session of his court, in the second district, before that time.

Very respectfully, &c.,

A. CUMMING,
Governor of Utah Territory.

HON. LEWIS CASS,
Secretary of State, Washington.

Mayor and City Council of Provo to Governor Cumming.

Provo, *March 11, 1859.*

SIR: The mayor and city council of this city beg leave to respectfully represent that:

WHEREAS, we have received petitions from the various wards of this city remonstrating against the military occupation of the seminary, and vicinity, by United States troops, to the annoyance of the citizens of this city, and to the intimidation of those persons having business with the district court, now in session in the seminary, and also rendering it exceedingly difficult for the civil officers to preserve the peace between the unruly portion of the citizens and soldiers. Some unpleasant circumstances have already occurred; and that they regard it as a direct interference with the municipal regulations of American citizens. Under these circumstances, you will see the impropriety of their longer continuing in their present position; and we respectfully request your excellency to cause that they be removed beyond the limits of this city.

By order of the city council.

B. K. BULLOCK,
Mayor.
JOHN LEETHAM,
City Recorder.

To his Excellency A. CUMMING,
Governor of Utah.

True copy:

A. CUMMING.

Governor Cumming to General Cass.

EXECUTIVE OFFICE, UTAH TERRITORY,
Great Salt Lake City, March 31, 1859.

SIR: I have the honor of submitting the following papers for your consideration:

March 10, 1859. Petition of the citizens of Provo to city council.

March 11, 1859. Petition of Provo city council to Judge Cradlebaugh.

March 12, 1859. Reply of Judge Cradlebaugh to Provo city council.

March 15, 1859. Rejoinder of Provo city council to Judge Cradlebaugh.

Petition of the citizens of Spanish Fork city to Judge Cradlebaugh.

I remain, &c.,

A. CUMMING,
Governor Utah Territory.

Hon. LEWIS CASS.

Petition of the citizens of Provo to City Council.

To the Honorable Mayor and City Council of the city of Provo.

GENTLEMEN: We, the undersigned, feeling ourselves aggrieved and outraged by the appearance of a military force in our peaceful city, surrounding the court and investing the halls of justice, beg leave respectfully to represent to your honorable body our views and feelings in relation to what we regard a *high-handed* outrage, a direct infringement upon the rights of American citizens, and a gross violation of our liberties and municipal immunities.

Whereas, the Hon. John Cradlebaugh, associate justice of the Supreme Court of the United States, and ex-officio judge of the second judicial district for the Territory of Utah, presiding, in his charge to the grand jury stated, "There are some troops here; perhaps it is an unusual thing for them to be here; I knew that there were those who were guilty out by the camp, and also that there were many guilty around here of numerous offences. I was informed that there was no prison here, and these troops were sent by the commanding general, at my request, to take care of the prisoners now in custody, and not to interfere with any one; they are here to take care of and to preserve the peace; if prisoners are brought they will be taken care of, and their whole authority is to detain those prisoners in custody that may be taken prisoners until they are called for by the court, and they have no power beyond that."

Whereas, the above statement of his honor the judge, in relation to there being no prison here, is an error, for it is well known to all our citizens that we have one, and that the civil officers both of the city and county hold themselves in readiness at all times to secure and take care of prisoners; and whereas, the judge says [the troops] were sent by the commanding general at his request, we can only look upon it that he is either afraid of his own personal safety or that they are here to intimidate private citizens, witnesses, and jurors, and so prevent justice.

It is impossible to believe the first, and that the quartering of officers in an adjoining room under that of the grand jury, with only a slight ceiling between, and the surrounding the court with soldiers, looks like the latter. The judge has truly said it is an "unusual thing,"

for never has such an outrage been committed on peaceable citizens of the United States as that of a grand jury being placed under military espionage, nor ever before has judicial terrorism reached such a climax as to seek to coerce a grand jury to find presentments under fear of bristling bayonets, nor have witnesses been intimidated by the presentation of judicial federal steel.

And whereas we regard his honor's statement that "they are here to take care of the prisoners and to preserve the peace," the first as being an attack upon the fidelity of our civil officers, and the second a direct insult to the inhabitants of the city.

We would respectfully represent that we revere and uphold the laws and institutions of our common country, and all officers and official acts, where they confine themselves within the limits of the law, Constitution, and custom; but when the rights of American citizens are wantonly trampled upon, and it is sought to desecrate the law by the terrorism of sword and bayonet, we look upon such characters as beneath our contempt, and feel ourselves called upon to remonstrate against such indignities.

We therefore request your honorable body to order the removal of these troops from our midst.

John Leatham
A. H. Scott
Edson Whipple
Jeremiah Roberry
David C. Rinnel
Wm. L. Penrod
Isaac Sampson
Joseph Robbins
James A. Bean
James Bean
David Cluff
Lewis Mecham
Ephraim Smith
Richard Smith
Thomas Jarman
Thomas Brown
James A. Smith
John Craghead
Robert Shimmin
Thomas Hillyard
Joshua L. Ferris
John Baum
Francis Clark
James Stratton
Thomas Ross
John Purcell
James Costo
Barton Stratton

George H. Sweat
S. I. Bunnel
Elisha Thomas
Wm. Weight
James Cloward
John Houskeeper
Thomas Houskeeper
Martin L. Snider
Isaac Baum
Philip J. Smith
George Traughten
Caleb Haws
Wm. O. Terry
Daniel Allen
Jacob H. Bower
D. A. Sessions
George H. Knowlton
Thos. B. Knowlden
James V. Young
Samuel H. Cluff
Enoch Gurr
Henry Sanders
Peter E. Van Orden
Samuel Allen
Charles Twelves
William W. Harvey
George Heath
Robert Hodgetts

True copy.

MARCH 10, 1859.

A. CUMMING.

Petition of Provo City Council to Judge Cradlebaugh.

PROVO, March 11, 1859.

To the honorable John Cradlebaugh, associate justice of the Supreme Court of the United States for Utah Territory, and ex-officio judge of the second judicial district.

Your memorialists, the mayor and council of Provo city, beg leave respectfully to represent, that,

Whereas the city council have received petitions from the various wards of the city representing that a detachment of the United States troops for several days past have been encamped on the seminary lot, the officers occupying the west lower room of the seminary building, without the consent of the council or citizens of this city, and to the no small annoyance of the community, tending directly to intimidate those persons who have occasion to attend the district court, now in session in the seminary, and also rendering it exceedingly difficult for the officers of the city to preserve the peace between the unruly portion of the citizens and soldiers, several unpleasant circumstances having already occurred, and their present location around the seminary savoring of a military interference with the municipal regulations of American citizens.

Your memorialists respectfully pray your honor to cause the immediate removal of the troops, now occupying the seminary and vicinity, beyond the limits of the city.

And your memorialists, as in duty bound, will ever pray.

On behalf of the city council,

B. K. BULLOCK, *Mayor.*

True copy.

A. CUMMING.

Reply of Judge Cradlebaugh to Provo City Council.

PROVO, March 12, 1859.

To the honorable the Mayor and City Council of Provo.

GENTLEMEN: Your letter of the 11th instant has just been received. In reply to it I take occasion to say that the movement of a company of infantry to this city and their temporary location here was well considered before it was determined upon. It was a matter of necessity. There were a number of prisoners to be tried before my court; neither the Territory nor the city afforded a jail or other place of confinement for them. No manner of provision had been made for their support or sustenance, neither by the Territory nor your city. To secure these prisoners, and to maintain them, are duties that I owe to my office and to them.

I have adopted the only means left me of accomplishing those

objects. The military company, kindly furnished by the commanding general, both secure and support these prisoners. That this small force should be near the court-house, or the building used as such, is not only a matter of convenience but of necessity to the court. This I will say, however, that so soon as I can dispense with their most useful services I shall do so.

You speak of their being here to the annoyance of the citizens of this city, and intimidation of those persons having business with the district court.

When, where, or in what manner these soldiers have annoyed or interfered with the citizens of Provo, I challenge you to show. A more quiet, orderly set of men I never saw; they have deported themselves with a propriety and decorum truly remarkable.

As to your remark about intimidation, allow me to say that good American citizens have no cause to fear American troops.

I am, gentlemen, your obedient servant,

JOHN CRADLEBAUGH.

True copy.

A. CUMMING.

Rejoinder of Provo City Council to Judge Cradlebaugh.

Provo, March 15, 1859.

Your letter of the 12th instant is now before us, in reply to the request of the mayor and city council of this city, in regard to the removal of the detachment of the United States troops that at your request are now quartered in this city, and are occupying a part of the building used for a court-house.

You observe that the matter of the troops being brought to this city was duly considered before it was determined upon, and that it was a matter of necessity to have them in attendance for the purpose of securing prisoners; that necessity, we understand, consisted in guarding five prisoners, two of whom, we learn, have been discharged.

Either the sheriff or municipal authorities were, and are, prepared to secure and safely protect any number of prisoners that there was any probability of being held in custody by your court.

You speak of our not having any place of confinement; this, we assure you, is a mistake; we have a place prepared for that purpose. And should the county or territorial officers arrest prisoners, the officers of the city or county will abundantly provide for their security, wants, and necessities. There is, therefore, no necessity of the United States troops being stationed in and around the court-house.

Had your honor conferred for one moment with the authorities of the county or city, in regard to the care of prisoners, you would not have asked the commanding general for a detachment of troops for that purpose.

Whatever may have been the object of clothing the court with a

military escort, it has the most dangerous tendency; it usurps the functions of civil officers, performs the duties the law never designed for the army, and renders null and void the civil offices that have been appointed by law; it presents the judiciary to the people in the light of a military inquisition. The lives and liberties of all persons accused are jeopardized by the examination of witnesses and action of jurors under the influence of a military intimidation and espionage. It is causing the city unnecessary expense. We have been under the necessity of doubling the police force and exerting ourselves to prevent indignant citizens from doing violence to the soldiers, and this has cost us three times as much as it would to have guarded all the prisoners, aside from the unavoidable injury of detaining agriculturalists from their pursuits at a season when preparations for seeding are of the utmost importance. But these are minor considerations compared with the establishment of a military judicial administration, hitherto unknown in the annals of freedom. Should such an order of things continue, we have reason to fear that the time is not far distant when witnesses will be sworn at the point of the bayonet, and the law executed by the sword.

Perhaps your honor is not aware that those quiet, orderly soldiers, of whom you speak, have been troublesome to the citizens of this city, and that several unpleasant circumstances have already occurred between the citizens and soldiers.

Is your honor aware that several soldiers have been arrested drunk in the streets, and the police, not wishing to bring a stain upon your honor's escort by putting them in jail, have quietly taken them to their quarters and delivered them to their officers?

We would also call your honor's attention to a circumstance that took place on the evening of the 11th instant, when, had it not been for the interposition of the city marshal, in all probability several persons would have been hurt, if not killed.

Is your honor aware that one of these orderly persons of whom you speak caught the marshal's horse by the bridle and endeavored to prevent him from quelling a row? Some of the soldiers have been caught by the city officers in the act of attempting to break into houses in the night. These are well known facts that can be proven by many witnesses.

However much we admire the talent, experience, skill, and military attainments of the officers, and the bravery and discipline of the men, it must be regarded as a very degrading appreciation of their gallantry and the high position which their military career has given them, to use them as a county jail—a walking calaboose. And we believe that all experience has proven that the introduction of soldiers into cities or villages has had a uniform tendency to produce hostile feelings.

Your honor says that "good American citizens have no cause to fear American troops." The gallantry of our officers, the discipline and bravery of our soldiers, have rendered our armies a terror to the enemies of liberty throughout the world; but when, through prejudice, political intrigue, speculative selfishness, or other causes, those gallant arms are placed in a position to intimidate American citizens, why should they not fear?

Honored sir, when our gallant army or any portion thereof is degraded by any cause whatever from that high position which the Constitution and laws have given it, as the arm of national defence, to the low station of supplanting the civil power, it must most certainly be feared by every American citizen not blind to the perpetuity of our national institutions. As a beginning, a single corps, highly honored for its discipline, the superior skill and scientific attainments of its officers, is placed out of its constitutional sphere to perform the duties of sheriff, marshal, or jailor; the military power then supercedes the civil, in a limited degree, to be sure, but military power seldom retrogrades, and jurors are controlled by them; the court follows in the wake; that bulwark of human liberty, an independent, high-minded judiciary, sustained by the people, is thus annihilated; the legislative and executive departments are soon overcome, and the sword of a Julius Cæsar puts an end to the whole fabric of liberty.

We ask your honor why should not all good American citizens be afraid?

For these and many other reasons we beg leave respectfully to renew our request.

With high consideration and esteem, we respectfully subscribe ourselves your most obedient servants,

B. K. BULLOCK, *Mayor,*
In behalf of the City Council.

Hon. JOHN CRADLEBAUGH,
Associate Justice of the Supreme Court
and ex officio Judge of the 2d judicial district
for the Territory of Utah.

True copy.

A. CUMMING.

Petition of the citizens of Spanish Fork City to Judge Cradlebaugh.

To the Honorable John Cradlebaugh, associate justice of the Supreme Court of the United States, judge of the second judicial district court, Utah Territory:

Whereas, by information, we, the undersigned, residents of Spanish Fork precinct, Utah county, citizens of the United States, have learned that your honor has opened a special term of court at Provo city, and that, by your request, a detachment of United States troops are stationed around the court-house, the officers making their headquarters therein, in close connexion with the grand jury room, which, to us, seems an unusual thing, as peace and good order pervaded our district; and believing that it has a direct tendency to intimidate jurors, witnesses, and other persons who have occasion to attend court; and further believing, with our forefathers, that standing armies in times of peace are dangerous to liberty, especially when placed in close proximity with the judicial bench, we view it as a reproach upon our fidelity as citizens, and more directly upon our territorial and county

officers, who have been willing and are ready to faithfully discharge the duties imposed upon them, and safely secure and provide for all prisoners who may be legally placed in their charge, and also to execute all orders of the court. And we beg leave respectfully to remonstrate against the intimidation of jurors, witnesses, and other persons attending the district court, by the presence of a military corps, as a high-handed violation of the rights and constitutional liberties of American freemen unprecedented in our great republic, and never tamely submitted to by the Anglo-Saxon race, and which has been a dangerous experiment in the most despotic governments, and can only end in the most disastrous results to all American institutions.

We regard a military despotism the most dangerous of all conceivable forms of government. As a specimen of this order of things, we respectfully refer to the history of the French republic for thirteen years after the fall of Louis XVI.

Feeling deeply for the continued welfare, peace, good order, and prosperity of our common country, and the perpetuity of her glorious institutions to all generations, in their primitive purity, and that the only true form of government is that emanating from the people, we therefore respectfully, yet earnestly, request your honor to remove your military guard, and let all apprehensions cease, and thereby prevent the establishment of a precedent that is calculated to lead to great evils.

We declare ourselves ever ready to sustain your hands in the administration of law, justice, equity, and the Constitution of the United States.

J. W. Berry
 Z Coltrin
 Josh. R. Hawks
 John A. Lewis
 James Bayak
 George Mayer
 John Murray
 Peter Shirts
 Franklin Farr
 Joshua Hawks
 W. Thomas
 W. S. Berry
 W. Draper
 Wilson D. Pace
 Thos. Stuart
 Albert K. Thurber
 James Keeler
 G. W. Damron
 J. L. Butler
 Erastus Curtis
 Sam'l Thompson
 Silas Hillman
 Sam'l H. Redd
 Jesse P. Holt

John McHinley
 Hugh McKee
 Thos. Mendenhall
 Eli Ashcroft
 Enoch P. Rollins
 Harvey A. Pace
 Washington Jones
 Chas. A. Davis
 James L. Thompson
 Moses T. Shepherd
 H. B. M. Jolly
 B. F. Raymond
 John S. Fuller
 Lewis Barney
 O. N. Tharnon
 Elias B. Stockton
 Truman Gilbert
 Philo Allen
 W. Stoker
 W. F. Butler
 Stillman Pond
 U. M. Curtis
 John F. Davis
 Daniel Toner

George Wilkins
 W. W. Riley
 K. T. Butler
 George D. Snell
 Albert Gay

Levin Simmons
 Jacob Cloward
 S. J. Raymond
 W. Somerville.

True copy.

A. CUMMING.

Memorial and petition of citizens of Utah Territory to Governor Cumming.

MEMORIAL AND PETITION.

UTAH TERRITORY, *March 22, 1859.*

SIR: Your memorialists, citizens of Utah Territory, respectfully represent that the Hon. John Cradlebaugh, associate justice of the supreme court of the Territory of Utah, and ex-officio judge of the second judicial district, commenced holding a term of court in Provo, Utah county, Utah Territory, on the 8th day of March, A. D. 1859, by what law, as to time and place, of the United States or of this Territory, is unknown to your memorialists, for in the statutes at large, Chapter CXXIV, Sec. 5, of "An act to amend the acts regulating the fees, costs, and other judicial expenses of the government in the States, Territories, and District of Columbia, and for other purposes," approved August 16, 1856, we find that Congress enacted "that the judges of the supreme court in each of the territories, or a majority of them, shall, when assembled at their respective seats of government, fix and appoint the several times and places of holding the several courts in their respective districts, and limit the duration of the terms thereof;" which is all the law upon that point that we have been made cognizant of; and, from page 119 of No. 27, Vol. VIII, of the Deseret News, we learn that Chief Justice D. R. Eckles, and Associate Justice C. E. Sinclair, in accordance with said law, did, in August last, meet in Fillmore City, then ruled by them to be the seat of government for this Territory, and "fix and appoint the several times and places of holding the several courts" in the three judicial districts of this Territory, fixing and appointing the time and place for the judicial district in which Judge Cradlebaugh is now holding court, as follows:

"Second district court will be holden at Fillmore City on the 1st Monday in November by Mr. Justice Cradlebaugh," and it is obvious that the 8th of March is not the "1st Monday in November," neither is Provo on the site of Fillmore City; Judges Eckles and Sinclair also limited, that "each term of district court will be for thirty days, if the business shall require it." Congress, (Statutes at Large, Chap. CLXVI, approved June 14, 1858,) enacted "that the judges of the supreme court of each Territory of the United States are hereby authorized to hold court within their respective districts, in the counties

wherein, by the laws of said Territories, courts have been or may be established, for the purpose of hearing and determining all matters and causes, except those in which the United States is a party: *Provided*, that the expenses thereof shall be paid by the Territory, or by the counties in which said courts may be held, and the United States shall in no case be chargeable therewith," and Judge Cradlebaugh cannot be holding court under this law, for he is examining "matters and causes in which the United States is a party;" and in Sec. 2, Chap. XLIII, Statutes at Large, approved July 4, 1840, we find "that the presiding judge of any circuit court may, at discretion, appoint special sessions thereof, to be held at the places where the stated sessions thereof are holden;" but at such special sessions are prohibited from "trying any cause by a jury;" now were such discretion allowed a judge of any district court, which we have not found, it would still preclude the court in question, since it has both grand and petit juries in its employ.

Having thus briefly and plainly cited all the law within our knowledge, pertinent to the subject, we submit the question of the legality of the court, now being held in Provo by Judge Cradlebaugh, to your excellency, and further respectfully represent that, upon a requisition by Judge Cradlebaugh, a detachment of United States troops was marched from Camp Floyd and halted at the building provided for the accommodation of the court, and in which said judge was at the time delivering his charge to the grand jury, and subsequently, and still, so far as we know, encamped adjacent to, and the officers quartered in said building, a proceeding altogether contrary to the spirit and letter of President Buchanan's late message to Congress, wherein he states, "I am happy to inform you that the governor and other civil officers of Utah are now performing their appropriate functions without molestation. The authority of the Constitution and the laws has been fully restored, and peace prevails throughout the Territory." Directly contrary to an express understanding with the Peace Commissioners, as made public in Provo by Governor Powell, June 16, 1858, when he stated to some four thousand citizens, then and there assembled, that "while he (President Buchanan) claims and will exercise the right to send the army wherever he may please, his object is not to make an encampment in any of your cities. General Johnson told me that he did not wish his army to be stationed near a city;" and contrary to any just, legal, or even necessary requirement, for, notwithstanding Judge Cradlebaugh, in his reply of March 12, 1859, to the petition of the mayor and city council of Provo for the removal of said troops, stated that they were there "to secure and support prisoners," the territorial and county officers attending court, and holding commissions from your excellency, promptly informed the judge that they were ready and amply able and responsible for the arrest, security, care, and forthcoming of all persons ordered to be arrested. Troops were ordered to accompany your excellency and other civil officers to Utah, as a *posse comitatus*, under the influence of statements that the territorial library and court records had been burned, a district judge intimidated upon the bench, and government officers driven from this Territory, the facts concerning which statements your

own personal observation fully enabled you to make known to our nation at an early day after your arrival, thereby officially precluding, particularly since the date of the Peace Conference in June last, any requirements upon the army in Utah, save to protect the citizens, the mails, and the emigrants from molestation by the Indians within our borders, at least until resistance should have been offered to the execution of any law or the order of any court or civil officer, which we are gratified in being able to state has not been done.

Governor Powell, at the time and place aforementioned, said: "The federal government demands nothing of you, fellow-citizens, which it does not require of the inhabitants of every State and Territory in the Union; that you shall be obedient to the laws of your country; that you will respect the civil authority; and that its officers shall be received by you, and enter on the discharge of their duties unmolested." Wherein have we failed in complying with those requirements to the very letter? Not in one tittle; and have gone beyond them, and unresistingly borne the quartering of troops in and around a court transacting territorial business in a peaceful city amply supplied with civil officers for the fulfillment of every legal requirement. And President Buchanan, in his message before quoted from, states that "these gentlemen (Messrs. Powell and McCulloch, peace commissioners) conducted themselves to my entire satisfaction, and rendered useful services in executing the humane intentions of the government. It also affords me great satisfaction to state that Governor Cumming has performed his duty in an able and conciliatory manner, and with the happiest effect." And now, notwithstanding the humane efforts and labors of Colonel Thomas L. Kane and your excellency so highly and justly commended by the chief executive of our nation, notwithstanding the President's proclamation of April 6, 1858, and the consequent results of the peace conference in Great Salt Lake City in June last, so satisfactory to both parties, and the agreements of which have been so scrupulously observed by Utah, could it have been presumed that a district judge would go back of all these facts, so widely known and so highly appreciated by every patriotic lover of his country and humanity, and take advantage of instructions to Brevet Brigadier General W. S. Harney, bearing the ancient date, "New York, June 29, 1857," and call upon the military to surround his court and jury rooms with bayonets? Yet such is the fact, when in those same instructions, and following the authority above alluded to, and which, perhaps, has been neglected to be rescinded, we read: "While you (General Harney) are not to be and cannot be subjected to the orders, strictly speaking, of the governor, you will be responsible for a zealous, harmonious, and thorough co-operation with him, or to frequent and full consultation, and will conform your action to his requests and views in all cases where your military judgment and prudence do not forbid, nor compel you to modify, in execution, the movements he may suggest."

It thus appears by those very instructions under which a district judge, if they are not already rescinded, claims authority for making a requisition upon Gen. Johnston for troops, that your excellency, as was very properly considered, has the superior authority in counseling their movements in the capacity of a posse. But notwithstanding all

these facts, and contrary to those principles of equity and justice that should characterize a court, it has pleased Judge Cradlebaugh to set aside, in several instances, the civil authorities, and, without the least valid reason known to us, to employ federal troops to execute the orders of his court, thereby clearly indicating on his part, so far as we can discern, an utter disregard of the latest expressed views and policy of the administration concerning Utah, and the views and policy of your excellency and all good citizens, and a settled purpose, for some cause, to force an angry collision between the citizens and troops, which it is well known is not so very difficult to accomplish in the best ordered town or city in the Union, especially when one class is caused illegally to supplant, taunt, and oppress the other. That the peaceful policy of the administration and of your excellency be not subverted by the wily schemes of such sutlers, speculators, camp-followers, and gamblers, as plot evil and bloodshed for gain; that citizens be not imposed upon in any of their rights, nor, when subpoenaed, treacherously arrested by bench warrants and unfed and without bedding guarded by troops; nor juries to attend to their duties under the bristling of bayonets; that the laws be respected and magnified; that the citizens be not goaded until they cannot restrain their anger, and thus forego for a time the happy results of the labors and toils of so many patriots and philanthropists, and cause the riotous to exult with joy; and that your excellency "take care that the laws be faithfully executed," we your memorialists, citizens of the United States in the Territory of Utah, respectfully petition your excellency to use all the influence and authority of your official position as governor of this Territory to remove all government troops from, in and around the court now in session in the city of Provo, and from, in and around said city, and to prevent any troops being located in or infringingly near any of our thickly settled villages, towns, or cities, and to fairly and fully, at your earliest convenience, report to the proper department in Washington City the official proceedings of Judge John Cradlebaugh, in the second judicial district of this Territory, and, for such wise, legal, and just action by your excellency, your memorialists and petitioners will ever pray.

His Excellency ALFRED CUMMING,
Governor of the Territory of Utah.

EXECUTIVE OFFICE,
Great Salt Lake City, March 31, 1859.

SIR: The above memorial and petition is respectfully submitted.
 Very respectfully, &c.,

A. CUMMING,
Governor Utah Territory.

Hon. LEWIS CASS,
Secretary of State, Washington, D. C.

Gov. Cumming to Gen. Cass.

EXECUTIVE OFFICE,
Great Salt Lake City, March 31, 1859.

SIR: I herewith enclose copies of my letter to Gen. A. S. Johnston, March 20, 1859; reply of General Johnston, March 22, 1859; my letter to the honorable Lewis Cass, March 25, 1859; my proclamation, March 27, 1859.

Very respectfully, &c.,

A. CUMMING,
Governor Utah Territory.

HON. LEWIS CASS,
Secretary of State, Washington, D. C.

Gov. Cumming to Gen. Johnston.

PROVO, UTAH TERRITORY,
March 20, 1859.

SIR: I arrived in this village on the 14th instant, and found a detachment of the United States troops quartered in and around a house in which the honorable Judge Cradlebaugh, United States judge, was holding court for the district. The officer in command of the detachment occupying this extraordinary position is a captain of the 10th infantry, and still continues to occupy the position in opposition to the reiterated protest of the inhabitants; and he has not deemed it necessary to report to me officially, although I have been six days in this village.

I have been informed that the honorable Judge Cradlebaugh brought hither and retains the command, not from any "just reason to expect opposition," but for the confining and securing under military guard prisoners charged with criminal offences.

The mayor of Provo has officially informed me that the civil authorities here are now, and have been, prepared and ready to securely and safely keep all prisoners arrested for trial at this court, and for the detention of any other persons whose presence may be necessary thereat.

I have been verbally, but unofficially, advised that a detachment of seven or eight hundred soldiers from Camp Floyd are now en route to the neighborhood, under the command of Major Gabriel R. Paul of the 7th infantry.

I herewith enclose extracts from my instructions as governor of Utah Territory, bearing date 30th July, 1857, (a copy of which is in your office.) From a perusal of these extracts, you will perceive the reason and necessity for this communication.

I, therefore, respectfully request that you will promptly order the

officer in command of the detachment now encamped at the court-house to occupy a position outside of the wall of the village; also, to order Major Paul, with his command, to assume such position as will relieve the inhabitants from the influence of a military encampment in their vicinity.

It is with pleasure I announce to you, that after careful observation I am satisfied that the presence of the military force in this vicinity is unnecessary, and for this and other reasons I desire to impress upon you the propriety of the immediate disposition of the troops as above indicated.

Should I be deceived in the opinion now expressed in regard to the peaceful disposition of the inhabitants, you may be assured, sir, that I will take prompt measures for securing the services of the military to act as a *posse comitatus*, where and whenever required.

I have, &c.,

A. CUMMING,
Governor of Utah Territory.

Gen. A. S. JOHNSTON,
Commanding Army of Utah, Camp Floyd, Utah Territory.

Extracts from "Instructions."

"It is your duty to take care that the laws are faithfully executed and to maintain the peace and good order of the Territory, and also to support by your power and authority the civil officers in the performance of their duties. If these officers, when thus engaged, are forcibly opposed, or have just reason to expect opposition, they have a right to call such portions of the *posse comitatus* to their aid as they may deem necessary. If circumstances should lead you to believe that the ordinary force at the disposal of such officers will be insufficient to overcome any resistance that may be reasonably anticipated, then you are authorized to call for such number of troops as the occasion may require, who will act as a *posse comitatus*, and while thus employed they will be under the direction of the proper civil officer, and act in conformity with the instructions you may give as the chief executive magistrate of the Territory. It is believed that these general suggestions will be found sufficient for such exigencies as may arise. The great object is to assert the supremacy of the law, and to do this in the mode and by the means which the law points out. The President trusts that occasion for resorting to the employment of military force will not arise; but should actual resistance take place, while you meet it with prudence and discretion, it must be met with firmness, and the whole force placed at your disposal must be employed, if need be, to put an end to illegal opposition; and should your means not prove sufficient, the President will take care that it be increased, for he is determined to exert all the requisite power of the Executive to preserve the authority of the law in the Territory of Utah."

LEWIS CASS.

General Johnston to Governor Cumming.

HEADQUARTERS DEPARTMENT OF UTAH,
Camp Floyd, U. T., March 22, 1859.

SIR: I have just received your excellency's letter dated on yesterday. The company of the 10th infantry mentioned in your letter was designated by my order "to take charge of certain persons who had been arrested and held for trial before the United States district court," at the request of the Hon. J. Cradlebaugh, United States district judge for Utah. There being no jail in this district, nor any means provided for the subsistence of the prisoners, as represented by his honor the judge, a refusal on my part would have rendered it impracticable to bring these culprits to trial, and the judge would have had no alternative but to turn them loose. In my judgment, there was a necessity for the aid which the judge officially solicited, and the force was accordingly furnished, and instructions given in reference to the special service to be rendered, which required from Captain Heth, the officer in command, to take all proper measures for the security of the prisoners, and to deliver them over to the court as called for under the direction of the judge. Anxious in the performance of every duty in aid of the executive or judicial authority of the Territory to give the people not a shadow of cause of complaint, Captain Heth was directed to camp without the limits of the town of Provo, where the court is held, but it appeared subsequently that the limits of this town are very great, extending several miles away from where any business is transacted. Captain Heth, at the suggestion of the judge, seeing that to comply literally with his orders would prevent him, on account of the distance, rendering the aid expected of him, encamped on a lot of ground, (which was approved by me,) the house on which had been rented for a court-house for the use of the United States government.

From the tenor of Captain Heth's report, which had the concurrence of the United States district judge, I thought it expedient to despatch an additional force under Major Paul, as, in consequence of the arrest of the mayor of Provo, and the intention to arrest the bishop of Springville, there was an excitement among disaffected persons, which, with the small force under Captain Heth, might lead to collision among the troops, which is equally to be avoided, if possible, and deprecated, and which the presence of a strong force would no doubt prevent.

I have been thus lengthy and circumstantial in presenting this narrative, that your excellency may see how improper it would be in me to change the positions, at your request, of a body of troops posted for a special service, with no instructions beyond the security of the prisoners in charge. Under the direction of the proper representation of a co-ordinate branch of the territorial government, with whose requisition, concurrently with your own, I am instructed by the general-in-chief to comply by furnishing any portion of the force under my command that may be needed, and then, while acting in their civil capacity, that is, as a posse in aid of the execution of the

law, or in aid of their administration, to go according to the direction of the civil officer upon whose call they were ordered out, or under whose direction they for the time being may be acting.

Although your excellency has a copy of my instructions, it is presumed that you have them not with you. I therefore send you an extract from them that you may see that I but act perfectly in accordance with them, in declining to make any change in the disposition of Captain Heth's company, or the force under the command of Major Paul, which was ordered to encamp at Battle creek, but afterwards encamped at Timpanagos, until the United States district judge informs me that he will dispense with them, when Major Paul will advance to Provo and take charge of the prisoners, if necessary, and return the same day on his way back to camp.

I beg leave most respectfully to suggest that under the circumstances there would have been a manifest impropriety in Captain Héth's reporting to you. Such an act would be an acknowledgment of military supremacy on your part which does not exist.

To prevent any misunderstanding hereafter, I desire to say to your excellency that I am under no obligation whatever to conform to your suggestions, with regard to the military disposition of the troops of this department, except only when it may be expedient to employ them in their civil capacity as a posse, in which case, should the emergency arise, your requisition for any portion of the troops under my command will be complied with, and they will be instructed to discharge the duty pointed out.

I have also to say to you that, to secure the military convicts who were required as witnesses by the United States district attorney, it would have been necessary to send a force to Provo with them, whether asked for or not.

There was nothing in the manner of making this movement that could have been construed as an intimidation, or should have caused any apprehension in the midst of a population whose public force greatly outnumbered the force sent among them, and I do not, nor do I think that it should be viewed by well-disposed and well-affected citizens in any other light than as a subject of gratulation that their government has the ability to bring offenders to justice, and to sustain by its power the administration and majesty of the law.

I acknowledge, also, the receipt of an extract from your instructions, which I have read, they were also shown to me by Colonel Crosman, but of which a copy is not in my office.

With great respect, &c.,

A. S. JOHNSTON,
Colonel 2d Cavalry, &c., Bvt. Brig. Gen., U. S. A.

Official :

F. J. PORTER,
Assistant Adjutant General.

Governor Cumming to General Cass.

EXECUTIVE OFFICE,
Great Salt Lake City, U. T., March 25, 1859.

SIR: I was in Provo from the 14th to the 23d instant. Before and during that time a variety of events occurred which have excited great alarm in the minds of the people of this Territory.

The Hon. John Cradlebaugh, United States judge, recently held a court in Provo, surrounded by a company of the tenth infantry, who were stationed at the court-house, (now called Camp Ridgely,) in the midst of the most populous part of the town.

After holding court for eleven days, Judge Cradlebaugh discharged both the grand and traverse juries. He is now acting as justice of the peace, with the intention of eliciting testimony in relation to alleged murderers near Springfield and Payson.

Persons who had been served with subpoenas as witnesses have been arrested in court as criminals, and committed to the guard-tent.

Among the prisoners was the mayor of Provo. His arrest and confinement in a guard-tent created a feeling of indignation among the inhabitants of Provo. He was released the next morning for want of evidence against him.

His arrest was probably the reason why Wall (the Mormon sheriff) said, he "did not like to see the mayor treated like a dog," and that "it would be necessary to increase the police force to keep the boys in order." Not the slightest disturbance occurred, however. The above-mentioned remark of Wall is supposed to have induced Captain Heth, who was the officer commanding the detachment at the court-house, to make requisition upon General A. S. Johnston for an increase of force, whereupon Major Paul was ordered to march upon Provo with eight companies of infantry, one of artillery, and one of cavalry, who are now encamped in the vicinity of Provo.

All these military movements have been made without consulting me at all. I believe them to have been made without sufficient cause. There has been no "opposition," nor "any just cause to expect opposition," on the part of the inhabitants who, so far as my information is concerned, have manifested no disposition to oppose the civil officers in the discharge of their duties. The marshal and his deputies have made their arrests with promptitude, without meeting "opposition," and without the aid of a civil or military posse. Since the judge indicated an intention of taking both witnesses and those arrested for criminal offences as prisoners to Camp Floyd, having caused the arrest of persons who had been summoned to appear before him as witnesses, many have fled in affright, preferring any inconvenience to being subjected to a protracted confinement in a military guard-house in a camp, without any hope of enjoying the benefit of the habeas corpus; the United States judge having ruled that the probate court has no jurisdiction in the premises, and the district judge, now acting *ex-officio* as justice of the peace, is himself the committing officer. It cannot, therefore, excite surprise that so many of the people

have fled, preferring to be branded as criminals to being dragged to camp, and confined in a guard-house, until it shall please the judge to release them or to give them a trial. It is my belief that the system now pursued will lead to much bloodshed, and is as much the result of hatred of the Mormons, as such, as of a love for justice.

I herewith enclose a correspondence between General A. S. Johnston, commanding the military department of Utah, and myself. It consists of a communication addressed by me to General Johnston, dated 20th March, and his reply to the same, dated 22d instant, together with extracts from the instructions given to me by government, dated July 30, 1857, and of an extract from the order to General W. S. Harney, 29th June, 1857.

I respectfully request that the discrepancy which exists between the instructions given to the civil and military departments in this Territory may be removed by some further action on the part of government, and I would also request that all requisitions for troops be made by or through the governor of the Territory, in order to avoid the confusion which will always arise from the pursuance of a different policy in a Territory so far removed from the parent government, as in Utah Territory.

I am, &c.,

A. CUMMING.

Hon. LEWIS CASS,
Secretary of State, Washington, D. C.

Copy of a proclamation by A. Cumming, governor of Utah Territory.

GREAT SALT LAKE CITY, *March 27, 1859.*

Whereas, one company of the United States infantry, under the command of Captain Heth, is now stationed around the court-house at Provo, where the Hon. Judge Cradlebaugh is now holding court; and eight additional companies of infantry, one of artillery, and one of cavalry, under the command of Major Paul, are stationed within sight of the court-house; and

Whereas, the presence of soldiers has a tendency not only to terrify the inhabitants and disturb the peace of the Territory, but also to subvert the ends of justice by causing the intimidation of witnesses and jurors; and

Whereas, this movement of troops has been made without consultation with me, and, as I believe, is in opposition to both the letter and spirit of my instructions; and

Whereas, General Johnston, commander of the military department of Utah, has refused my request that he would issue the necessary orders for the removal of the above-mentioned troops.

Now therefore I, Alfred Cumming, governor of the Territory of Utah, do hereby publish this my solemn protest against the present military movement, and also against all movements of troops incompatible with the letter and spirit of the annexed extract from the

instructions received by me from government for my guidance while governor of the Territory of Utah.

In testimony whereof, &c.,

A. CUMMING.

[L. s.] JOHN HARTNETT, *Secretary.*

Extract quoted in proclamation.

“It is your duty to take care that the laws are faithfully executed and to maintain the peace and good order of the Territory, and also to support by your power and authority the civil officers in the performance of their duties; if these officers when thus engaged are forcibly opposed, or *have just reason to expect opposition*, they have a right to call such portions of the *posse comitatus* to their aid as they may deem necessary; if circumstances should lead you to believe that the ordinary force at the disposal of such officers will be insufficient to overcome any resistance that may be reasonably anticipated, then you are authorized to call for such number of troops as the occasion may require, who will act as a *posse comitatus*, and while thus employed they will be under the direction of the proper civil officer, and act in conformity with the instructions you may give as the chief executive magistrate of the territory.”

General Cass to Governor Cumming.

DEPARTMENT OF STATE,
Washington, May 2, 1859.

SIR: The subject of your letter of the 31st March last, and its enclosures, has been fully considered by the President, and I am instructed to inform you that orders have been issued from the War Department which will remove any such discrepancy between the civil and military departments of the government as that to which you refer.

It is extremely important that the officers of the United States in Utah should act harmoniously in everything which relates to that distant Territory, and it is earnestly hoped that the harmony will not again be interrupted.

I am, &c.,

LEWIS CASS.

ALFRED CUMMING, Esq.,

Governor of the Territory of Utah, G. S. L. City.

Governor Cumming to General Cass.

EXECUTIVE OFFICE, UTAH,
Great Salt Lake City, May 12, 1859.

SIR: On the 9th instant I was informed by a Mr. Tomlinson that he had seen twenty-five or thirty armed men near Goshen, whom he at first suspected of being a party of horse thieves; but, subsequently, had reason to suppose they were Mormons. In addition to which, I was informed by Marshal Dotson that he believed that there were several other armed parties in the adjacent mountains. I was, therefore, induced to issue an order to the territorial marshal, a copy of which is herewith enclosed.

I have since had reason for believing that the parties were in the mountains in consequence of a feverish anxiety which had been created by a report that Judge Sinclair intended to advance, in a few days, upon Great Salt Lake City, with a large military force; and that these parties (being Mormons) were acting as videtts to communicate the facts connected with the anticipated military movement. As soon as the marshal reports to me, I will have the honor of communicating his report to the department.

With the exception of the excitement produced by the singular action of the judges, the people of the Territory are quietly employed in their usual avocations.

Very respectfully, your obedient servant,

A. CUMMING,
Governor of Utah Territory.

Hon. LEWIS CASS,
Secretary of State, Washington, D. C.

Order issued by Governor Cumming to the territorial marshal.

EXECUTIVE OFFICE, UTAH,
Great Salt Lake City, May 9, 1859.

Whereas, I have this day been informed that certain persons, who are to me unknown, have associated themselves together in a military, or assumed military capacity, near Goshen, and at other points in or near the mountains surrounding Great Salt Lake valley, in this Territory;

And, therefore, having reason to believe that these associations and assemblages are unlawful, and directly tending to interrupt and jeopardize the peace and good order of this Territory;

I now hereby order and command that all persons so associated and assembled together shall immediately disperse and return to their homes and usual avocations; and that all and every of such persons who shall refuse immediately to obey this command and injunction, are hereby declared disturbers of the public peace of this Territory;

and, as such disturbers of the public peace, shall be arrested and dealt with according to law in the premises.

And I hereby direct, authorize, and empower John Kay, the marshal elected by the legislature of the Territory of Utah, to enforce, carry out, and execute the foregoing command and injunction, for the preservation of the public peace of said Territory, and that he make due return to me of the execution thereof.

Given under my hand and seal of said Territory, at Great Salt Lake City, this ninth day of May, A. D. eighteen hundred and fifty-nine.

A. CUMMING,
Governor of Utah Territory.

Governor Cumming to General Cass.

EXECUTIVE OFFICE, UTAH,
Great Salt Lake City, May 19, 1859.

SIR: I herewith enclose the report of John Kay, marshal of this Territory, in relation to the alleged assembling of parties of armed men near Goshen, and at other points in the vicinity of this valley.

Notwithstanding the various rumors circulated by interested parties, I am convinced that there is no disposition on the part of the inhabitants to disturb the peaceful relations which have existed since my arrival in this city, and which can only be disturbed by the most unwise policy of others.

It cannot be expected that any sensible man would consent to be held responsible for the peace and good order of this Territory so long as the population is liable to be annoyed by the presence of troops in their midst, called for at the suggestion of angry and capricious feeling.

I trust, therefore, that the President will perceive the necessity of ordering that all requisitions for troops, which may be required as a military posse, shall be made alone through the governor, and be subject to his instructions.

Very respectfully, &c.,

A. CUMMING, *Governor.*

HON. LEWIS CASS,
Secretary of State, Washington, D. C.

Report of Marshal Kay to Governor Cumming.

GREAT SALT LAKE CITY, U. T.,
May 16, 1859.

SIR: Pursuant to your orders of the 9th instant I left this city on the morning of the 10th, accompanied by Deputy Marshal John Sharpe. The same day I learned from Mr. Charles Mogo, whom I met near his residence, some twenty-three miles south, that he had

seen a small body of armed men on the pack-trail leading from Spanish Fork to San Pete. I continued on, making strict inquiries as I passed the settlements and of such travellers as I met by the way.

On arriving in the vicinity of the place designated by Mr. Mogo, I directed Marshal Sharpe to search through the ravines and all places suitable for the secretion or camping of parties of men. He found some eight or nine men in a grove of pine timber on the mountains about three miles south of Spanish Fork cañon, engaged in cutting timber and sliding logs for lumbering. They were armed, as has been customary with such parties, but were peaceably attending to their avocations. On receiving Mr. Sharpe's report, I did not consider it within the province of my duties, nor required by your instructions, to interfere with them, and so I passed on.

As particularly suggested in your instructions, I proceeded at once to Goshen. I there met two gentlemen, Messrs. Ward and Johnson, strangers to us, who received us very kindly, and courteously gave me such information as they had in their possession. From them I learned that, about five days previous to our arrival there, some eighteen men, armed with rifles, had left the Goshen settlement, (or fort as it is called by some,) and were absent about three days. I did not learn whither they had gone, nor the names of the parties, but was assured by the gentlemen before named that the parties had returned, and were peaceably attending to their affairs at home.

Anxious, however, to carry out fully your excellency's instructions, Mr. Sharpe and myself made a critical reconnoissance of the country in the vicinity of Goshen. We found quite a number of men scattered over the extensive range of pasture country. They were, however, simply in search of stock, and, although armed, some with rifles and others with revolving pistols, were in parties of not more than two or three, and diligently prosecuting the business of herders or cattle-gatherers.

On further inquiry I learned that the Messrs. Steward, extensive stockowners in that neighborhood, had for some time been making arrangements for an extended cattle drive, and had for several days previous to our visit been carrying out their plans. I would here suggest to your excellency that it has been a custom, from the period of the first settlements in Utah, to make what is generally termed a "spring drive," for the purpose of collecting together the cattle that have been driven or scattered by the winter storms. At such times prudent men always go armed, and seldom, if ever, singly. Determined, however, to avail myself of every opportunity to inform myself of anything that might lead to the discovery of the unusual assembling of armed bodies of men, I inquired closely of all parties I met, and particularly of strangers in the Territory, who, I presumed, would be the most likely in travelling to take observations of that kind. Mr. Box, himself an extensive stockowner, and who has been recently employed in herding government stock, assured me that, apart from the usual herders and cattle-drivers before referred to, there were no parties of armed men, to his knowledge, in the hills, ravines, or valleys in that neighborhood. He spoke confidently, as he unquestionably

has and has had a superior opportunity to acquaint himself with everything transpiring in his neighborhood.

I held, while at this place, a conversation with Mr. Riley Stewart. He told me that there had been a body of some forty-five armed men posted in the mountains near Goshen, a little east by south of that place. He had seen three different men coming down from what he considered their rendezvous, bringing with them a three-gallon keg, filling it with water and returning again, one at a time, for three successive days. He stated that the party had already left their position. Not satisfied, however, I made further inquiries, and found that about six or eight men had been engaged there cutting fencing posts from the large cedars in that vicinity. Of this party a gentleman named White, who I believe is a resident at Goshen, came down from the mountains and proposed to purchase a rifle of a train, (I think Mr. Hickey's.) This may have created some suspicions, but why it should I am not prepared to say.

On my returning from the south, I visited the mountains more immediately west of this city, and after the strictest inquiries failed to ascertain that any of the citizens were doing aught save attending to their own legitimate business.

Before closing my report, I consider it my duty to say to your excellency that I heard, during my short tour, numerous complaints of petty thefts committed upon the citizens by parties unknown, such as the breaking open of stables, stealing horses, and saddles, &c.

That there are any bodies of men gathering, or concealed in the mountains, with a view to military organization or service, is entirely a mistake and without any substantial foundation, I have no hesitation in assuring your excellency, after the strictest and most impartial inquiries.

I have already occupied much space in my report, but was anxious to lay before your excellency all the relative facts and circumstances connected with my tour.

I have, &c.,

JOHN KAY,
Marshal of Utah Territory.

His Excellency A. CUMMING,
Governor of Utah Territory.

Governor Cumming to General Cass.

EXECUTIVE OFFICE,
Great Salt Lake City, U. T., August 12, 1859.

SIR: I have the honor of enclosing herewith copies of a recent correspondence between General A. S. Johnston and myself, with an extract from an order, May 6, 1859, from the Hon. John B. Floyd, Secretary of War, and other papers having reference to the same subject.

You will oblige me by submitting this correspondence to the Presi-

dent, as there seems to be an obvious discrepancy between the orders of the honorable Secretary of War to General A. S. Johnson and your instructions to me.

Very respectfully, &c.,

A. CUMMING,
Governor of Utah Territory.

Hon. LEWIS CASS,
Secretary of State, Washington, D. C.

Mr. Smith to Dr. Forney.

BRIGHAM CITY, BOX ELDER Co., U. T.

August 1, 1859.

DEAR SIR: Agreeable to your request that I should inform you whenever any movements of the Indians took place of any importance in this part of your superintendency, I wish to say to you that some Indians came in yesterday from the north, with reports that some whites had been massacred some 200 miles north of this on the California road. The reports were so vague and contradictory that, at first, I did not consider it worthy of credence. But having afterwards learned that some Indians had in their possession some horses, mules, oxen, and other property, unusual for them to traffic in, trying to trade the same to citizens in the suburbs of the city, I thought best to institute an inquiry in reference to the matter. I fear the report is too true, though there is much contradiction in regard to the circumstances and extent of the murder. One report is, that two Indians entered a camp of emigrants to trade, and were killed by said emigrants. The Indians then gathered their forces and revenged their death by killing five men and two women belonging to said camp. Other reports make the number of the whites killed more, and state other causes for the massacre. I send this by Mr. Nichols, bishop of this settlement, who will give you further particulars. I send by him a daguerreotype which has been obtained from the Indians by one of our citizens and given to me to send down to you.

It is stated by the Indians to belong to some of the murdered party.

Yours, &c ,

SAMUEL SMITH.

Dr. FORNEY,
Superintendent of Indian Affairs.

Dr. Forney to Governor Cumming.

SUPERINTENDENT'S OFFICE, UTAH,
Great Salt Lake City, August 2, 1859.

SIR: Enclosed is a copy of a letter just received. The bearer of the letter gives additional information, which, with the letter, leaves scarcely a doubt that an emigrant train has been attacked, and a por-

tion, or all, murdered by Indians, supposed to be from the State of Oregon.

It is said the murder was committed near the Goose Creek mountains. A small military force should be sent north. I will go north to-morrow.

I remain, &c.,

J. FORNEY,
Superintendent of Indian Affairs, U. T.

His Excellency A. CUMMING,
Governor of Utah.

Governor Cumming to General Johnston.

EXECUTIVE OFFICE, UTAH,
Great Salt Lake City, August 3, 1859.

SIR: I have the honor to enclose herewith a note addressed to me by J. Forney, esq, superintendent of Indian affairs, covering a letter addressed to him by Samuel Smith, of Box Elder, detailing a statement of the killing of certain emigrants on the northern route to California, in the vicinity of the Goose Creek mountains.

The superintendent leaves here to-day for Box Elder.

Verbal information, communicated by the bearer of the note from *Smith*, induces the belief that a larger number of persons have been slain than is indicated by the written communication.

I therefore respectfully request that you will detach a suitable command, with instructions to communicate with Superintendent Forney, at Brigham City, with a view of arresting the murderers, and furnishing protection on the road.

Your compliance with this request will oblige, very respectfully,
your obedient servant,

A. CUMMING,
Governor of Utah.

General A. S. JOHNSTON.

General Johnston to Governor Cumming.

HEADQUARTERS DEPARTMENT OF UTAH,
Camp Floyd, August 5, 1859.

SIR: Your letter of the 3d instant, requesting that a detachment of troops may be sent on the northern California route for the apprehension of Indians said to have murdered a party of emigrants, and for the protection of travellers on that route, has been received. And I will, in consequence of the information contained in your letter, but not in compliance with your requisition, despatch a force, as I would do should the like information come from any source entitled to credit,

to arrest those who may be found on inquiry to have been engaged in the murder, and to punish any others who may attempt to rob or murder on the route.

In view of the very specific orders of the Secretary of War of recent date, limiting my authority to comply with your requisitions for the aid of the United States troops to cases which in a single contingency may occur, I shall feel it my duty to refuse a compliance with your requisitions for troops in any other case whatever than those specified.

Should any extraordinary exigency occur, such as is contemplated by the law approved March 3, 1807, for the use of the military force, the mode is there pointed out by which the aid of such force can be obtained, which of course is well known to you.

I have the honor to transmit an extract from my orders, mentioned above.

With great respect, &c.,

A. S. JOHNSTON,
Col. 2d Cavalry, Bv't Brig. Gen. U. S. A.

His Excellency A. CUMMING,
Governor of Utah.

Secretary of War to General Johnston.

WAR DEPARTMENT,
Washington, May 6, 1859.

SIR: The change which seems to have taken place in the condition of things in Utah Territory since the date of your former instructions renders some modification of these instructions necessary.

Peace being now restored to the Territory, the judicial administration of the laws will require no help from the army under your command. If the services of the United States troops should be needed, under any circumstances, it could only be to assist the executive authority in executing the sentence of law or the judicial decrees of the court. And that necessity could only arise when the services of a civil posse were found to be insufficient. You will therefore only order the troops under your command to assist as a *posse comitatus* in the execution of the laws upon the written application of the governor of the Territory, and not otherwise.

I am, General, &c.,

JOHN B. FLOYD,
Secretary of War.

Brevet Brig. Gen. A. S. JOHNSTON,
Commanding Department of Utah, Camp Floyd, U. T.

Governor Cumming to General Cass.

EXECUTIVE OFFICE, U. T.,
Great Salt Lake City, August 19, 1859

SIR: On the 12th instant I had the honor of enclosing copies of a recent correspondence between General A. S. Johnson, now in command of this department, and myself, with an extract from an order of the Hon. John B. Floyd, as Secretary of War. As my former note was intrusted to the care of an individual, (there being no mail,) I deem it expedient to enclose the same papers by mail, with the request that they be laid before the President, as there seems to be an obvious discrepancy between the orders of the honorable Secretary of War to General Johnston and the instructions given to me by you.

I hope that there will be no unnecessary delay in furnishing me with the decision of the President.

The officer who was put upon the detached service has encountered some unknown band of Indians, killing about twenty, and having some of his men and horses wounded. An additional command passed through this city for the purpose of sustaining the first detachment. I hope that the matter will be conducted with discretion by the young gentleman in command of the soldiers. Under existing circumstances I cannot exercise any authority in relation to the actions of the troops, either in person or through the officers of the Indian department.

Very respectfully, &c.,

A. CUMMING,
Governor of Utah Territory.

Hon. LEWIS CASS,
Secretary of State.

General Cass to Governor Cumming.

DEPARTMENT OF STATE,
Washington, September 15, 1859.

SIR: Your letters of August 12th and August 19th have been received.

In supposing that there is any conflict between your instructions and those issued by the War Department in May last, I think you labor under some misapprehension. The troops in Utah were not intended to be placed at your disposal, so that you might employ them for any purpose connected with the welfare of the Territory which you might deem expedient, but were only intended to be employed as *posse comitatus* in aid of the civil power, whenever resistance was manifested to the execution of legal process. Thus, in your instructions of July 30, 1857, you were told:

“It is your duty to take care that the laws are faithfully executed and to maintain the peace and good order of the Territory, and also

to support by your power and authority the civil officers in the performance of their duties. If these officers when thus engaged are forcibly opposed, or have just reasons to expect opposition, they have the right to call such portions of the *posse comitatus* to their aid as they may deem necessary. If circumstances should lead you to believe that the ordinary force at the disposal of such officers will be insufficient to overcome any resistance that may be reasonably anticipated, then you are authorized to call for such number of troops as the occasion may require, who will act as a *posse comitatus*, and while thus employed they will be under the direction of the proper civil officer, and act in conformity with the instructions you may give as the chief executive magistrate of the Territory."

In conformity with these views, the following instruction was given to Colonel Johnston by the Secretary of War, on the 6th of May, 1859:

"You will therefore only order the troops under your command to assist as a *posse comitatus* in the execution of the laws, upon the written application of the governor of the Territory, and not otherwise."

The views contained in your instructions are still the views of the President, and it is not perceived that the instructions of the War Department are in conflict with them.

I am, &c.,

LEWIS CASS.

ALFRED CUMMING, Esq.,
Governor of Utah Territory.

Judge Eckels to General Cass.

CAMP FLOYD, W. T., September 27, 1859.

SIR: I owe it to my friends, when I cannot meet their reasonable expectations, to explain to them the causes that prevent it, and particularly so while I hold an official position for which I am indebted to their partiality; and for my efficiency in the discharge of its duties the public may in some degree hold them accountable. This I shall attempt to do on the following pages.

The court for the first judicial district, to which I have been assigned, commenced its session for this year at Nephi, in Juab county, on the 22d *ultimo*, and closed on the 3d *instant*. Although all the causes that were on the docket were disposed of to the satisfaction of all, so far as I know, yet there were many, very many, high crimes that were not passed upon by the grand jury.

On my approach to the place more than two-thirds of the male population fled from it, including all the officers, civil and ecclesiastical, as they did from Judge Cradlebaugh at Provo last spring, although there were no "soldiers" with me for a pretext. Some alleged that they did so for fear of being summoned on juries, and others that they feared being apprehended for crime. Which version of the matter is true it is not now my purpose to decide. It is the fact I state; and their flight caused me to have to send the deputy marshal to Cedar county for talesmen before I could complete my juries, and by it I lost a day of the term.

The grand jury was in session six days, and found indictments against ten persons for murder in the first degree, one for grand larceny, and one for forgery. The latter was tried and convicted, and is now in the penitentiary for forging checks of the deputy quartermaster general on the assistant treasurer at St. Louis, Missouri. No other person was in custody. Five persons in custody, three for murder and two grand larceny, were turned loose by Mormon officials a few days before court; one by the sheriff of San Pete county, two by the sheriff of Utah county, and two by the sheriff of Cedar county. At the close of a week I was compelled, much against my inclination, to discharge all my jurors and witnesses in criminal cases, because they could not be boarded and lodged any longer. Neither the United States nor the Territory had provided *one cent* to pay any expense for jurors, witnesses, or anything else. If the marshal had funds, as I presume he had, he declined to pay out any until his vouchers had first been sent on to Washington city and allowed. The Territory never has, and, as I believe, never will provide any means to support the district courts. *They want none of them.* They do not do the will of the theocracy, but follow the statute books rather than the *new revelations*. The grand jury made a presentment on the subject of their condition, a copy of which I send you for information. To my knowledge the facts were even worse than they state. At no place could boarding be had for less than one dollar and fifty cents per day. Two dollars was the general price, and in most cases lodging was found in mule pens. Keeping a horse was not less than a dollar per day. These are customary prices all over the Territory. Jury fees are two dollars per day under the laws of Congress, and witnesses one dollar and fifty cents; and by the laws of Utah jurors receive seventy-five cents and witnesses fifty cents. These fees will at no time defray a man's expenses in Utah, and it is a shame to ask a man's services for less than will pay his board. Under these circumstances I felt compelled to discharge the juries. Here I might close this letter and abide your judgment upon the facts, but, sir, I hope you will pardon me for going further, and advising you of how things *really* are here, for I fear they are not understood at the capital.

In this district, including nearly half of Utah, there is not a *jail* for the safe keeping of prisoners. There is no provision for guarding them, and no funds to feed either. There are about one hundred and sixty murders committed in it, while no one has yet been tried for any of them. Larceny and other high crimes I cannot estimate. This year they are hundreds. They occur daily. The perpetrators are in the Territory. The highest church officials are implicated—presidents, apostles, and bishops. *They bid defiance to the law.*

Temporary relief could be afforded us by the use of the army as a civil *posse*. The prisoners might be fed from the commissary stores of the army, and kept in the military prison here. There is a good stone one. This would answer until with time and money a better mode could be provided. I can do no more than make a suggestion. One thing must be evident to all: If crime is to be punished in Utah, the courts must be sustained. There is here no general desire to have crime punished. In proof of this I refer to the fact that the guilty

have not been arrested or prosecuted, nor do they aid us to do so, but, upon the contrary, interpose every obstacle in their power to its being done.

No steps were taken to bring the perpetrators of the massacre at Mountain Meadows before the grand jury. The public accuser has no doubt reasons satisfactory to himself for the omission. In this connexion I take pleasure in saying that the health of Mr. Wilson was not good. It is true, however, that two propositions were made me verbally. The first was, if I would permit others to select the jury that should try them, then the *church* would produce them for trial. I, of course, could make no terms with criminals. They must abide by the law. Second, that I should appoint, or cause to be appointed, John Kay, a notorious Mormon, to execute the writs. This I had no power to do, and for reasons that I deem it unnecessary now to give, but which, if given, I know would be satisfactory to you, I would not have done it if I possessed the power. I never will acknowledge in this country a power over the law and above the law. All should be dealt with according to its provisions.

But why write of details. It would be a small matter if every offender in Utah was pardoned, if the evil would only stop there. Alas, sir! this cannot be until there is a radical change. Things are sadly out of fix in Utah. Early in June, 1858, and before the peace commissioners reached Great Salt Lake City, I ventured to give you an opinion as to what would be the result of their mission, and I deeply regret now, sir, to know that what I then saw as an effect of causes is now history. These causes I hope you will now permit me to point out.

Man, as we find him in the most favored communities, when removed beyond the *currents of civilization*, fast recedes towards barbarism. Here the people are nearly destitute of the civilizing effects of commerce, Christianity, and government. They are drawn here from the hard-working but ignorant classes of foreign countries, whose want of intellectual culture made them an easy prey to Mormon delusion, and, when here, governed in everything by designing knaves from the States, whose love of plunder and the gratification of the animal appetites have induced to quit the society of home *for its good*, and seek seclusion in this inhospitable region. There are some exceptions to both these classes; but, sir, they are not only few but powerless for good. Where vicious men control ignorant herds, it requires little sagacity to foresee the consequences. Civilization necessarily must languish. My observations are that it is rapidly on the decline.

I have long been satisfied that the population of the Territory already exceeds its capacity to produce the necessary support of the people. It is true that, of favorable seasons, a small surplus of wheat and potatoes can be produced, but the seasons are much more uncertain than they are in the States. The lands under cultivation are already on the decline, and very little is capable of being added to its quantity. There is other good land, it is true, but water for the purposes of irrigation cannot be had, unless, indeed, water from artesian wells can be obtained for that purpose, which seems generally to be doubted; and among the population of Utah, there is not more than one out of

every two or three thousand adults that has the means of making such a well. The wood, the water, and the grass, are diminishing. The Territory cannot now support stock enough to supply to each person half rations of meat, and I do not believe that at present more than one-eighth rations is or can be supplied to the population. Many of them have complained to me that they have had no meat to eat—some for six, some for twelve, and some few for eighteen months, living all the while on flour and sometimes potatoes. Since the army came here they have been better clothed, so that suffering from cold is not now to be feared to any great extent. If the Mormon leaders were good men, carefully regarding the laws of *mine* and *thine*, which unfortunately is not so, the wants of the people would cause many larcenies and encourage violence. The character of the leaders, the wants of the people, the wickedness of some of their revelations, and their hatred of the “*d—d Gentiles*,” all combine to produce a state of things here to be controlled by no *three judges without support*.

Strange as it may appear to those who are unacquainted with Mormonism, these people have a pretended revelation from God, requiring them to *steal* the property of their enemies (unbelievers) to build up their kingdom, (*their church*.) I quote the exact words from their book of “*Doctrine and Covenants*,” chapter 21, section 6, fourth European edition, page 157. It was given, as they pretend, at Kirtland, Ohio, in August, 1831.

“6. Behold, it is said in my laws, or forbidden to get in debt to thine enemies; but behold, it is not said at any time (see note 1) that the Lord should not take when he please, and pay as seemeth Him good: wherefore, as ye are agents, and ye are on the Lord’s errand, and whatever ye do according to the will of the Lord is the Lord’s business, and he has set you to provide for his saints in these last days that they may obtain an inheritance in the land of Zion. And behold, I, the Lord, declare unto you, and my words are sure and shall not fail, that they shall obtain it; but all things must come to pass in their time; wherefore be not weary in well doing, for ye are laying the foundation of a great work. And out of small things proceedeth that which is great.”

This when believed removes the last restraint to the commission of crimes of this grade; hence larcenies exist almost without number. Nothing seems as yet to have restrained it in the least.

It would be well for the credit of the United States if the disorders in Utah stopped with this reckless disregard of the rights of property; but it is not so. Life, liberty, and allegiance exist here by quite a precarious tenure. The seventh section of the same chapter from which I quote above inculcates the duty of murdering those who may rebel. It is in these words:

“7. Behold, the Lord requireth the heart and a willing mind; and the willing and obedient shall eat the good of the land of Zion in these last days; and the rebellious shall be cut off out of the land of Zion, and shall be sent away, and shall not inherit the land; for, verily, I say that the rebellious are not of the blood of Ephraim, wherefore they shall be plucked out. Behold, I, the Lord, have made my church in these last days like unto a judge sitting on a hill, or

in a high place, to judge the nations ; for it shall come to pass that the inhabitants of Zion shall judge all things pertaining to Zion.”— (Note 3.)

“Sent away,” indeed! Yes, they are sent away as the Texan rangers let the Mexicans “get away” at *Muerto del Paso*. At this place a number of Mexicans had been hung by a company of rangers on their march from Comargo to Monterey in 1847. Complaint was made to Gen. Taylor about it, and he called up one of the guilty soldiers, when the following dialogue took place :

General. Did you take any prisoners as you came up?

Soldier. Yes, sir.

General. How many did you capture?

Soldier. Forty, sir.

General. What did you do with them?

Soldier. They *got away*, sir.

Soon after this soldier was dismissed by the general, he met with a friend of his who had heard what had passed between him and Gen. Taylor, when his friend thus addressed him : S—, why did you tell your general such a falsehood? If it was right to hang these prisoners, it is right to tell your general so ; if it was wrong to tell him the truth about it, it was wrong to do it. My dear sir, replied the soldier promptly, I told no lie ; they did “*get away*” as I said. Where? inquired his friend. He replied, to h—ll, I hope, where all the rest ought to get to.

Just so these saints *send away* their rebels. They are sent to *that country* from which few have ever returned. So have hundreds been sent away in Utah, and hundreds more will journey along the same highway unless the American people lay the axe to the root of the tree.

These pernicious doctrines are taught publicly in the tabernacle, and printed and sent out everywhere to the faithful. See the “Deseret News” for 1857. They are no mere abstract theories, but they are *strong, living, active, controlling principles that permeate the whole body, and are obeyed from the heart.*

A *fundamental* principle of Mormonism is, that all power, *civil and ecclesiastical*, is in their priesthood ; that there is from necessity an inseparable union of church and state ; that the latter is subordinate to the former ; and that Mormonism is the only true religion. Hence they have ever refused to aid us in administering the territorial government, and doing whatever they can to prevent it. They are as rebellious against our form of government to-day as they ever were. True, they are not openly under arms.

These combined causes have for years kept up here bands of murderers and robbers. Every new emigration to Utah but increases the evil. Now, * * * * these people are a terror to all travellers through these mountains. No road from the States to California is safe. Five trains have been robbed of their stock almost in sight of our camp with impunity. We are utterly powerless to prevent it. The church makes all the laws, fills nearly all the offices, holds the purse-strings, controls the population, and turns loose the prisoners. The army, with its orders as they construe them, have, like the rest

of us, to sit by, look on, but can do nothing. The Indians are blamed for it.—(See my letter and accompanying affidavits to the Hon. Secretary of the Interior that goes out by this mail.) The whites plan and aid in the execution of these murders. They are the really responsible parties. The longer immunity which these people have enjoyed from punishment for crime, the more daring they have become; and the ineffectual efforts of the judges to enforce the laws only increase their contempt for it. Things here grow *worse and worse*. *What shall be done?* Marshal Dotson has resigned. Judge Sinclair and Attorney Wilson have gone to the States. Mr. Secretary Hartnett has gone to St. Louis, and his friends think he may not return. I fear that like Mr. Secretary Babbett he will pay the forfeiture with his life if he does return. Judge Cradlebaugh will likely go during the fall, and I expect to leave in the spring. There is here, sir, *neither pleasure nor profit in official life*. Duty only has kept us here this long, with the hope that something would be done at Washington. I cannot hope against hope much longer. *I have faith* in our friends, but they are deceived and misled. They have not believed our report. Time will prove all this to the incredulous. A peace with traitors, begun by concessions, must end in disgrace. I do not allude to our friends in Washington.

What is to be done with Utah? This is a monstrous question. It is one we cannot blink much longer, if we would. It must be met. We must either govern Utah *against the will* of these people or abandon it. I regard it as certain that from the Mormon people we are to expect no help to maintain our happy form of government. To permit a monarchy to be erected within the heart of the country, and allow all travel to be broken up, is to confess the weakness of our institutions, and consent to their overthrow by a handful of adventurers. No man who loves his country can listen for a moment to such a proposition. To buy them out, to get them to go away, is not much better. They own nothing here to sell. You [they?] have not paid the squatters of the United States, who were a meritorious population, for their improvements. What then? For one I say govern them, *come what may*.

* * * * *

Our institutions grew up out of, and are supported and maintained by, our ethical code. Mormonism strikes at the very vitals of this code, and the wood, the water, and the grass of the people of the United States are made to support Mormonism. Gentiles here, and passing through here, are compelled to pay tithes for its support. Shall our moral, social, and political institutions be then stabbed on their own hearthstone? No, sir; never with my consent—no, never.

* * * * *

I know, sir, that anything you can do to aid in protecting life, liberty—civil and religious—and the rights of private property, you will do. Without legislation I am aware the administration can do no more.

* * * * *

Your obedient servant,

D. R. ECKELS.

Note 1.—Negative proof is of great value with Mormons. By its use Brigham Young proves that polygamy is constitutional—for it says nothing against that institution. Like a Dutch justice in New York, when three men swore that they saw a prisoner steal a man's pocket-book, and four others swore they did not see it, he decided that the weight of evidence was with the prisoner.

* * * * *

Note 3.—These two quotations give the causes of what these people call persecution in Ohio, Missouri, Illinois, and Utah. I apprehend they should have used a little different word, "prosecution." Men who make it a part of their religion to steal and murder must often suffer persecution for *that sort* of righteousness. Here, also, you see that by this revelation they deny to the courts the right to try anything pertaining to "Zion." As you see, by reference to their sermons, this includes civil and ecclesiastical affairs.

Presentment of the grand jury, accompanying the communication of Judge Eckels.

TERRITORY OF UTAH, ss :

District court of the United States in and for the first judicial district of said Territory, August term, one thousand eight hundred and fifty-nine. Hon. D. R. Eckels presiding.

The grand jurors impanelled, charged, and sworn to inquire for the people of the United States in the first judicial district of the Territory aforesaid, upon their oath, present :

That they, the said grand jurors, are, and have been, in attendance upon the present session of this court at the town of Nephi, Juab county, in the Territory aforesaid, from the commencement of its present term, on the twenty-second day of August, in the year one thousand eight hundred and fifty-nine, up to the present time, the twenty-seventh day of August, in the year aforesaid, without receiving any compensation for their services as jurors aforesaid, and, in consequence, a portion of the aforesaid jurors are unable to defray the current expenses of board and lodging, arising from their attendance upon this court as jurors. The grand jurors aforesaid do further present, that the compensation allowed them as jurors by the territorial statute, viz., the sum of seventy-five cents per day, is inadequate and insufficient to defray the necessary expenses while attending this court as jurors, the price of board alone being one dollar and fifty cents per day, and at most of the houses where board can be obtained a higher rate is demanded.

The grand jurors aforesaid do further present, that the ordinary rate of wages for laboring men in this Territory is from thirty to sixty dollars per month, including board, and to require men to serve on juries at the rate per diem given by the statute of this Territory is not only depriving them of the just reward of their labor, but is also in violation of a well-known principle of law that no man shall be

required to render particular service without just compensation therefor, to be fixed by law.

The grand jurors aforesaid do further present, that the territorial treasury is destitute of funds and unable to pay the jurors aforesaid even the slight pittance allowed them by the statute for their services, and there is little likelihood of the said treasury being at any time shortly replenished so that the said jurors can be paid for their services.

The grand jurors aforesaid do further present, that in consequence of the want of funds of a portion of their number, the high rates of board, and the meagre accommodations afforded in the town of Nephi, they are compelled, a portion of them, to lodge often in the open air with only such accommodations as the ground affords for a bed and the sky for a covering.

The grand jurors aforesaid further present, that no provision is made by law for the maintenance of prisoners or witnesses while in attendance upon this court on the part of the Territory, to answer or give evidence in cases of public prosecution; in consequence of which prisoners have to rely upon a doubtful and precarious charity of subsistence, and are completely dependent on the public for their daily bread; neither is any jail provided for the lodgement and safe keeping of persons charged with crime, and a constant guard by night as well as day has to be maintained over prisoners to prevent them from escaping.

The grand jurors aforesaid further present, that the fees of all officers of the court, including the marshal, United States attorney, clerk, bailiffs, together with the petit jurors, are insufficient to defray actual expenses incurred while in attendance upon the court, and the amount given to the several officers by statute has been in no case paid, in consequence of the depleted treasury of the Territory.

J. D. Radford, foreman.
 G. W. Harris, juror.
 H. B. Howe, juror.
 E. M. Morgan, juror.
 Geo. H. Crosman, jr., juror.
 Jos. E. Packard, juror.
 Wm. H. Lent, juror.
 J. M. Wallace, juror.
 C. N. Foust, juror.
 Henry H. Hall, juror.
 M. J. Wheeler, juror.
 W. J. Larkins, juror.
 S. M. Taylor, juror.
 George P. McFarland, juror.
 his
 John + Hoyle, juror.
 mark.
 Witness, Geo. H. Crosman, jr.

Joseph Taylor, juror.
 William H. Warner, juror.
 his
 James + Rollins, juror.
 mark.
 Witness, Geo. H. Crosman, jr.
 Charles Spencer, jr., juror.
 Robert R. Rollins, juror.
 Edeil Elmer, juror.
 his
 Josiah + Miller, juror.
 mark.
 Witness, E. M. Morgan.
 his
 Thomas + Gustin, juror.
 mark.
 Witness, E. M. Morgan.
 One absent.

General Cass to Governor Cumming.

DEPARTMENT OF STATE,
Washington, December 2, 1859.

SIR: A communication of the 27th of September last has been received at the department from Judge Eckels, of Utah, relative to the condition of affairs in that Territory. The statements contained in it are deemed by the President worthy of investigation, and extracts from it are herewith transmitted to you by his direction, with a request that the subject may receive your careful attention. The President desires you to furnish the department, at the earliest practicable moment, with an official report upon the present condition of the Territory, stating the causes, if any, which operate to retard the due administration of the laws, and to prevent the maintenance of peace and order; by what means, in your judgment, those causes can be most promptly and advantageously removed; to what extent any troubles that may now exist have been produced by a failure of the territorial legislature to provide suitable measures for their prevention, and how far they are owing to an unwillingness on the part of the people of the Territory to aid in the execution of the laws.

You are also requested to embody in your report the most reliable statistical information in your possession upon the following points: The present number of inhabitants in Utah, and the proportion of Mormons amongst them; the number of persons arriving in the Territory and departing from it; the capacity of its arable lands to sustain the present or a larger population; and in this connexion your attention is specially invited to the remarks of Judge Eckels upon the subject.

It is deemed very desirable to reduce the large number of United States troops now in Utah, if it can be done consistently with the tranquillity and general interests of the Territory, and on this point, also, your views will be acceptable.

In the hope that you may be able to assure the department of a peaceful and satisfactory state of things in Utah, and relying upon your zeal and discretion in the discharge of the duties of your office, I am, sir, your obedient servant,

LEWIS CASS.

ALFRED CUMMING, Esq.,

Governor of the Territory of Utah, Great Salt Lake City.

Official report of Governor Cumming to General Cass.

EXECUTIVE OFFICE,
Great Salt Lake City, U. T., February 2, 1860.

SIR: Your communication, dated 2d December, 1859, enclosing extracts from a letter of Judge Eckels, I received by the last mail. Annexed you will find my official report on the present condition of the Territory.

I have also answered the questions proposed by you in that communication as accurately as I have been able to do from the information at my disposal.

Upon my arrival in this city, in April, 1858, I found the whole community moving, or preparing to move, in anticipation of the advance of the army. An opinion prevailed that the approach of the army to their settlements would be the signal for the commission of every species of crime that an infuriated soldiery might perpetrate.

Messrs. Powell and McCulloch, commissioners, preceded the army, bearing a proclamation from the President, conceived in accordance with the enlightened spirit which characterizes our age. The army, under the command of General A. S. Johnston, marched in perfect order through this city, giving evidence of its thorough discipline.

Reassured by the proclamation of the President, by this conduct of the army, and by my explanation of the intentions of the government towards them, to which explanation I need only refer in this place, as it is embodied in my reports to yourself, bearing dates 2d and 12th of May, 1858, and made public soon after their reception at Washington, the people soon returned to their homes, and resumed their usual avocations, which they have since continued to pursue with steady industry.

Persons unbiased by prejudice who have visited this Territory will, I think, agree in the opinion that a community is seldom seen more marked by quiet and peaceable diligence than that of the Mormons.

After the passage of the army, hundreds of adventurers were attracted to these valleys, and met here some congenial spirits. Banded together for rapine and acts of violence, they have stolen large herds of horses and mules. Many of these men, maddened by intemperance, or rendered desperate by losses at the gaming table, or by various other causes, have shed each other's blood in frequent conflicts, and secret assassinations. These lawless and bloody deeds are committed by them almost daily with impunity, and when their atrocity and frequency shock the public mind, it has become the custom with a certain set of people to exclaim against the *people of Utah*; but it is an injustice to impute the acts of these desperadoes to the community in general. With an equal show of justice might they be attributed to the inhabitants of the States and Territories whence these men have so recently emigrated.

Some of "the causes which operate to retard the due administration of the laws and to prevent the maintenance of peace and order" in this Territory are, I believe—

First. The infrequency of and distance between the sessions of the United States courts. These sessions, by law, are held annually. The maintenance of prisoners and witnesses during the interval between the sessions, which interval is often longer than the time indicated by law, must, under existing circumstances, subject the Territory to a very great expense.

Second. The United States marshal has declined making arrests of offenders against territorial laws, because, as he asserts, the legislature

have not made such provisions for the payment of *necessary* expenses of arrest and maintenance of prisoners as are by him deemed necessary, and he has had no assurances that the United States will defray such expenses.

In answer to the above assertion of the marshal, I would here refer to a pamphlet, which I send, entitled "Acts and Resolutions of the Legislative Assembly of Utah for 1858 and 1859." For *jury fees*, see page 8, chapter 3, section 18. For *general fee bill* of Utah Territory, see page 11, chapter 9, section 1. For *contingent fund* for the use of *territorial* marshal or sheriff, see page 13, chapter 9, section 3.

In all cases of appeal costs must be paid or secured by the appellant.—(See "Revised Laws of Utah," a copy of which I send, page 136, chapter 3, section 25.)

Witnesses' fees in criminal cases are paid by the county court; in civil cases, by the parties.—(See "Revised Laws," page —, chapter —, section —.)

The fees in this Territory, as will be perceived, are not sufficiently large to encourage litigation, and there is an evident dislike on the part of the community to resort to courts, preferring arbitration to appeals to juries. The expense attendant on the maintenance of prisoners is intended to be met by special appropriations for the relief of counties chargeable with that expense.

Third. Continued immunity from punishment has so emboldened certain bands of lawless and desperate men that they have been enabled to hold in a state of intimidation both civil officers and witnesses.

Fourth. The refusal of the judges of the United States courts to recognize the authority of the *territorial* marshal in the United States district courts. The authority of this marshal is conferred on him in accordance with section 3, chapter 7, page 140, of "Revised Laws of Utah."

Fifth. The refusal of the judges of the United States district courts to recognize the authority of the probate courts in their respective counties "to exercise original jurisdiction, both civil and criminal, in chancery as well as at common law." The probate courts base their claim to exercise this jurisdiction upon the act contained in page 124, chapter 1, section 29, of "Revised Laws of Utah."

The inhabitants of the Territory of Utah urge, in defence of the claim of the probate court to the exercise of the powers above recited, the following passage: "The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be as limited by law."—(See "Statutes at Large," vol. 9, page 455, chapter 51, section 9, organic act, entitled "An act to establish a territorial government for Utah," approved 1850.)

Sixth. Another and perhaps one of the strongest reasons which prevents the administration of law in Utah is a conviction generally held by the people of this Territory that the minds of the United States judges are so blinded by prejudice against them that Mormons can hardly expect a fair and impartial decision in any case where they are concerned. Many even believe that there is a *strong desire*

on the part of the United States judges to convict a prisoner of crime if that prisoner be a Mormon, and especially if he should happen to be a person of importance in the community.

They give several plausible reasons for holding this opinion. Among several, I will mention these :

1st. The unnecessary assemblage of a military force at Provo during the session of the United States court at that place in March, 1859, and the imprisonment of citizens in military guard-tents at that and other times.

2d. The residence of the chief justice at the headquarters of the army, evidencing, they maintain, both dislike and distrust of the people towards whom it is his duty as judge to maintain an impartial and unbiased attitude.

3d. The frequent expressions of opinions by several of the United States judges, that the entire community have forfeited their right to self-government, and that martial law is not only desirable but necessary.

The community also complain of vexatious adjournments of court during term time ; of the precipitate discharge of grand jurors, that the judges may sit as committing magistrates, instead of pursuing the ordinary course of business.

I should recommend as modes of removing some of the causes of obstruction of order above mentioned :

1st. That it should be made obligatory upon the judges of the United States district courts to remain in the Territory during their period of service, unless leave of absence be granted to them by the proper authority ; and that their duties, during their absence, shall be performed by an associate.

2d. That in the event of a failure on the part of the territorial legislature to make the provision necessary to defray the expenses of arrests and maintenance of prisoners, that the United States marshal be empowered to defray such expenses from any public funds in his hands ; which expenditure shall be charged to the Territory, and that he shall be required to give to the territorial auditor quarterly statements of such expenditures.

3d. That the territorial marshal be recognized as the proper officer to transact territorial business in the courts ; provided, that the legislature make the necessary appropriation for defraying the expenses of such courts, otherwise the business to be transacted by the United States marshal.

4th. That the probate court be authorized to exercise all the authority conferred on it by the act contained in page 124, chapter 1, section 29, of " Revised Laws of Utah."

I would wish to be understood that the above remarks are intended to apply exclusively to that part of the Territory inhabited by Mormons. In reference to the difficulties known to exist in the portion of this Territory known as Nevada, I believe them to arise from a settled determination on the part of its inhabitants to recognize no courts and obey no laws, except those which have their origin in and spring directly from primitive assemblages of the people.

In regard to the question of the number of population, I would

state that, from the most authentic information at my command, I am induced to believe that the entire population of this Territory cannot exceed fifty-two or fifty-three thousand, (52,000 or 53,000,) of which number at least 50,000 (fifty thousand) are Mormons. The bulk of the permanent population who are not Mormons reside in Nevada. It is proper that I should state that the Mormon estimate of the population is much larger.

I have no data whereby I can form an estimate of the number of persons who annually arrive in and depart from this Territory.

Enclosed you will find a statement of the number of persons introduced into this country through the means of the "Perpetual Emigration Fund Society" since the year 1850, making a total of 4,769 persons, at a cost of about \$300,000.

Arable lands.

Many of the best lands in Utah have been partially exhausted by injudicious culture. There is a general complaint of the insufficiency of water; and, under the present system of irrigation, I do not believe the arable lands would sustain a population exceeding 100,000 people. If, however, the system of irrigation by means of artesian wells were generally adopted, for the employment of which system the country seems peculiarly well suited, the number of the population might be almost indefinitely increased, as there are immense quantities of good lands in the Territory which only require water to make them productive.

Time does not permit me to notice all the points in the voluminous communication of Judge Eckels. But I think it well to refer to one of his statements. Speaking of the flight of the people from Nephi, and of other matters connected with holding court there, the judge says, after making his statement: "Here I might close this letter and abide your judgment."

Now it has been publicly asserted, without contradiction that I know of, in the "Deseret News, September 7, 1859," that the judge, in addition to the marshal and bailiffs, was accompanied by fifteen grand jurors and ten petit jurors, all from Cedar county. In Cedar county is Camp Floyd and Frogtown, which adjoins the camp. At Camp Floyd Judge Eckels resides; at Frogtown is a large proportion of the itinerant population, dependent on the army for support. But the judge could, doubtless, explain this circumstance quite as well as the sending for talesmen to the same county, when he was in the immediate vicinity of Utah county, one of the most populous, whilst Cedar county is the least so of any organized in the Territory, after deducting the army, its employés, and dependents. But, unexplained, it does seem remarkable.

In another part of his letter, Judge Eckels states that two propositions were made to him verbally. The first was, that if he would allow others to select the jury the church would produce certain persons for trial. In relation to this proposition I know nothing. With regard to the second, Judge Eckels says: "It was proposed that I should appoint, or cause to be appointed, John Kay, a notorious Mor-

mon, to execute the writs" against certain persons. In regard to this second proposition, I presume the judge has reference to one made to him by me; the tenor of which was, that John Kay, the *territorial marshal*, should be deputized, and receive these writs from Marshal Dotson, who had declined to serve them, unless accompanied by a military posse. This proposition was delivered by the judge, who alleged that "it would end in Mormon whitewashing." In reply, I stated to him that John Kay had volunteered the service, informing me that he was both able and willing to arrest the persons alluded to; and that I could perceive no material difference between the arrest and delivery of criminals by one person rather than another, whether Mormon or gentile.

The Indians of this Territory are numerous, well armed, and somewhat warlike. The withdrawal of the entire army from this Territory seems to me injudicious and unjust, both to the resident population, as well as to the emigration through the country. I would, therefore, suggest that about 500 (five hundred) soldiers should be retained here, and be established at such points as are deemed desirable by the officer in command. A larger number than the above would probably be unnecessary.

I am, &c.,

A. CUMMING.

HON LEWIS CAS,
Secretary of State, Washington, D. C.

Letter from John T. Caine, accompanying Governor Cumming's report.

GREAT SALT LAKE CITY, *February 1, 1860.*

SIR: In compliance with your request of yesterday, that I would furnish such information as might be in my possession relative to the number of persons emigrated to this Territory through the instrumentality of the Perpetual Emigrating Fund Company, I take great pleasure in submitting the following statistical memoranda:

In the year 1850 there was [were] emigrated by the Perpetual Emigrating Fund Company 432 persons; in the year 1852, 298 persons; in the year 1853, 400 persons; in the year 1854, 1,082 persons; in the year 1855, 1,229 persons; in the year 1856, 1,273 persons; in the year 1857, 1 person; in the year 1858, (owing to Utah difficulties,) none; and in the year 1859, 54 persons; making a total of 4,769 persons, at a cost of about three hundred thousand dollars.

Your excellency will please notice that this forms but a small portion of the yearly "Mormon immigration," no record of which, so far as I am acquainted, has ever been, nor could there be, as persons emigrating on their own means have come and gone at pleasure.

Hoping that this may be satisfactory, and assist in making up the desired information, I remain, very respectfully, your excellency's obedient servant,

JOHN T. CAINE.

His Excellency A. CUMMING,
Governor of Utah Territory.

John T. Caine, who signs the foregoing communication, is clerk of the "Perpetual Emigrating Fund Society."

A. CUMMING.

Governor Cumming to General Cass.

EXECUTIVE OFFICE, UTAH,
Great Salt Lake City, March 1, 1860.

SIR: Previous to his departure from Utah, the Hon. Charles E. Sinclair adjourned his court (this district) to court in course, say to July, 1860.

The Hon. John Cradlebaugh, assigned to the second or western district, including Carson valley, is also absent from the Territory.

The Hon. D. R. Eckels is still here, but contemplates leaving for home in a short time.

By the existing arrangements we are left without any district courts. The United States judges have refused to recognize the right of exercising civil or criminal jurisdiction, claimed by the probate courts, upon the grounds referred to in my letter to you of 2d February, 1860.

Thus it will be perceived that we are in a state bordering on anarchy; the thieves are daily becoming more numerous and audacious; and murderers go unpunished; and civil suits involving large amounts are indefinitely postponed; and moneys in the hands of the marshal are retained by that officer for want of judicial action; and one party, at least, charged with murder has been many months confined in the county jail of this county awaiting trial.

I therefore respectfully suggest the necessity of immediate action on the part of the government, either to send us judges, authorize the probate courts to exercise the authority claimed by them and granted by the legislative assembly of the Territory, or adopt some other means to relieve this community from the present and impending evils.

I deem it unnecessary to state my opinion that the use of a military force, in the present emergency, is not only repugnant to my views of public interest, but would only serve to increase the present difficulties.

It may be proper to advert to the fact that the entire revenue of the Territory does not exceed \$13,000 for all purposes. Therefore it might be expedient to adopt the recommendation contained in my letter of 2d February. In addition to which, I would now recommend that instructions be given to the United States marshal to disburse the funds

now in his hands to defray the expenses of the courts in *territorial* cases, so far, at least, as criminal actions are concerned.

Experience has proven that public service in this Territory has been deemed undesirable by all the appointees of the government; and this remark is peculiarly applicable to the district judges who have been from time to time appointed.

* * * * *

Very respectfully, your obedient servant,

A. CUMMING,
Governor of Utah Territory.

Hon. LEWIS CASS,
Secretary of State, Washington, D. C.

Governor Cumming to General Cass.

EXECUTIVE OFFICE,
Great Salt Lake City, U. T., March 22, 1860.

SIR: In my communication to you of February 2, 1860, I stated that the probate courts of this Territory claimed the right of exercising "original jurisdiction, both civil and criminal, in chancery, as well as criminal law," and that they based their claim to exercise this jurisdiction upon an act contained in the "Revised Laws of Utah," which laws are based upon the organic act of the Territory, according to their construction of the same.

The judges of the United States district courts have refused to recognize the authority above referred to.

On the 1st of March, 1860, I stated that the community was in a condition bordering on anarchy, and that some action was necessary on the part of the government to relieve it from present and impending evils.

The probate court for this county is now in session in this city. Many felons have been arrested; several have been tried, convicted, and sentenced to punishment in the penitentiary.

If Congress will sanction the action of the probate court in the exercise of the power claimed by it, I entertain little doubt that the community will, ere long, be relieved from the bands of desperadoes who have, by their presence, rendered the tenure of life and property so unsafe here for the last twelve months.

The action of the probate court now in session is marked by calmness, justice, and decision, and I believe that, under present circumstances, it is the only remedy for the existing evils.

Respectfully, &c.,

A. CUMMING,
Governor of Utah Territory.

Hon. LEWIS CASS,
Secretary of State, Washington, D. C.

General Cass to Governor Cumming.

DEPARTMENT OF STATE,
Washington, April 18, 1860.

SIR: I have to acknowledge the receipt of your letter of the 22d ultimo, and to inform you in reply that a message from the President, transmitting reports from the Secretaries of State and of War, with documents relating to affairs in Utah Territory, will be communicated by him to-morrow to the House of Representatives in answer to their resolution of the 26th of March last.

I am, &c.,

ALFRED CUMMING, Esquire,
Governor of the Territory of Utah, Great Salt Lake City.

WAR DEPARTMENT, *March 30, 1860.*

SIR: In reply to your letter of the 28th instant, communicating a copy of the resolution of the House of Representatives of the 26th, I have the honor to enclose to you copies of papers containing all the information in possession of this department touching the condition of affairs in Utah not already officially published.

Very respectfully, your obedient servant,

JOHN B. FLOYD,
Secretary of War.

Hon. LEWIS CASS,
Secretary of State.

List of papers enclosed.

1. The Adjutant General to General Johnston, January 11, 1860.
2. Same to same, February 3, 1860.
3. General Johnston to the Adjutant General, February 29, 1860.

NOTE.—The papers heretofore communicated by this department will be found in the President's message and documents, 1st session, 35th Congress, p. 21, and following; House document 71, same session, p. 4, and following; President's message and documents, 2d session, 35th Congress, p. 28, and following; and in the President's message and documents, 1st session, 36th Congress, p. 121, and following.

1. *The Adjutant General to General Johnston.*

ADJUTANT GENERAL'S OFFICE,
Washington, January 11, 1860.

GENERAL: The Secretary of War directs that, should not the service of the department in Utah, in your judgment, especially require your further presence, you will, as soon as convenient to yourself after the receipt hereof, turn over the command of the department to the second in command, and repair by such route as you may select to this city, and report to the Secretary of War for further orders.

I have the honor to be, general, very respectfully, your obedient servant,

S. COOPER,
Adjutant General.

Brevet Brig. Gen. A. S. JOHNSTON,
Com'g Dep't of Utah, Camp Floyd, Utah.

2. *The Adjutant General to General Johnston.*

ADJUTANT GENERAL'S OFFICE,
Washington, February 3, 1860.

GENERAL: Your letter of November 2, 1859, to the Assistant Adjutant General, at the headquarters of the army, transmitting Major Lynde's report of his expedition to the sink of the Humboldt river, and of his operations in the region of Bear and Snake rivers, Washington Territory, and suggesting measures for the protection of emigrants journeying to the Pacific coast by the route through Utah, has been forwarded to this office and laid before the Secretary of War, who has indorsed it, as follows:

“WAR DEPARTMENT, January 23, 1860.

“The employment of the troops in the manner proposed by General Johnston for the protection of the emigrant route through Utah is approved, and his suggestion for the appointment of agents for the Shoshonee and Bannach Indians will be recommended to the Department of the Interior.

“The circumstances reported in these papers indicate the necessity for prompt and vigorous measures to punish such depredations when they occur.

“J. B. FLOYD,
“*Secretary of War.*”

I have the honor to be, general, very respectfully, your obedient servant,

S. COOPER,
Adjutant General.

Brevet Brig. Gen. A. S. JOHNSTON,
U. S. A., Com'g Dep't of Utah, Camp Floyd, U. T.

3. *General Johnston to the Adjutant General.*

HEADQUARTERS DEPARTMENT OF UTAH,
Camp Floyd, U. T., February 22, 1860.

SIR: I have the honor to report that the service in this department does not require my special presence. I shall, therefore, in compliance with the discretionary orders of the Secretary of War of the 11th of January, turn over this day the command to Brevet Colonel Charles F. Smith, 10th infantry, and leave to-morrow for Washington city, by the southern route to California, the only one available. I expect to be in Washington about the 1st of May.

I am, sir, very respectfully, your obedient servant,

A. S. JOHNSTON,

Col. 2d Cavalry, Bv't Brig. Gen., U. S. A.

Colonel SAMUEL COOPER,

Adjutant General U. S. A., Washington city, D. C.