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PROCEEDINGS

OF A MEETING OF THE BAR, 3D JUDICIAL DISTRICT,

WASHINGTON TERRITORY

ON THE ARREST OF THE HON. EDWARD LANDER, CHIEF
JUSTICE OF SAID TERRITORY AND JOHN M.
CHAPMAN, CLERK OF THE DISTRICT
COURT, BY AN ARMED FORCE
UNDER ORDERS OF

GOV. ISAAC I. STEVENS.

TOGETHER WITH THE PROCEEDINGS OF A
MASS MEETING OF CITIZENS OF
PIERCE CO. W. T.

STEILACOOM, MAY 7,

1856.

NOTE.

On the 7th day of May 1856, the Hon. Edward Lander, Chief Justice of Washington Territory and John M. Chapman Esq., the Clerk of the District Court of the United States of the third judicial district, were forcibly arrested in the Court House at Steilacoom W. T., while engaged in holding a United States District Court for the county of Pierce, by a volunteer force, acting under instructions from Gov. I. I. Stevens and carried under guard to Olympia, the seat of the territorial Government.

MEETING OF THE BAR.

Immediately upon the removal of Hon. Edward Lander and J. M. Chapman Esq. from the District Courtroom, Col. Wm. H. Wallace requested the members of the Bar to remain. Those in attendance, consisting of Messrs. Wallace, Gibbs, Clark, Pease, Hewitt, Murden, Kendall and Evans, on motion organized by the appointment of William H. Wallace, Esquire, Chairman and Geo. Gibbs Secretary.

B. F. Kendall, Esq. being called upon, stated the objects of the meeting to be a consideration of the extraordinary proceedings of the arrest of the Judge and Clerk by an armed force, acting under instructions of Gov. Isaac I. Stevens, and under pretext of a proclamation of Martial Law over the county of Pierce. Mr. Kendall on the conclusion of his remarks, moved the appointment of a committee of three to draft resolutions expressive of the sense of the Bar, at this outrage against law and Judicial authority. The motion was adopted and Messrs. Gibbs, Evans and Pease, were placed upon said committee.

On motion the Chairman of the meeting was added to the committee, and the meeting then adjourned until 2, P. M., of the same day.

ADJOURNED MEETING.—Accordingly at 2, P. M., the members of the Bar again met, when the chairman of the committee on resolutions, made the following report:

A meeting of the bar has devolved upon this committee the task of giving expression to the sentiments entertained by that body, of the gross outrage this day inflicted upon the Court and Bar of this District, by the exercise of Military power over Civil authority.

This day marks an era in the Territorial History. For the first time in the annals of our country, does the exhibition present itself, of an armed force marching into a Court of Justice, and while the presiding Judge thereof is in the exercise of Judicial authority, the court is overawed, its Judge taken from the Bench, its Clerk arrested, the records seized, and they removed by an armed force out of the county, in which by law, the Court was to be held. In view of these circumstances, we deem it our solemn duty to make a statement of the facts, submitting it with confidence to the judgment of the World.

A war existing against Indian murderers and marauders in this territory, it would have been a subject of gratulation, if the gallant volunteers in its service had been employed in punishing those Indians, rather than in sustaining lawless violence, and in the infliction of outrages upon our courts and people. For so violent an assumption of power, we conceive that some little basis of reason should be found to justify it. But it becomes our duty to assert that no such reason exists and that the proclamation of Martial Law was unnecessary, inexpedient, illegal and void: to sustain which declaration the following statement of facts is confidently relied upon. It is our wish to treat this subject not in a spirit of excitement, although that would be fully justified by the circumstances, but with coolness and moderation. Satisfied as we are that the bare statement of the facts is sufficient, we need no appeal to passion or prejudice.

Several citizens of Pierce county, one of the most populous in the territory, who had been ordered in from their claims to the town of Steilacoom on suspicion of intercourse with the hostile Indians and had subsequently returned to their homes, were arrested without process of law, in the latter part of March by a force of volunteers acting under direction of Gov. Stevens and having been first carried to Olympia, in the county of Thurston, were by the Governor remitted to the Military post of Fort Steilacoom with request to the commanding officer, to detain them on a charge of *treason*. Col. Casey having replied that he could not hold them in defiance of civil authority, and the persons arrested, having sent to the nearest Judge, who resided in Island county, a distance of about a hundred miles, for a writ of *Habeas Corpus*, Gov. Stevens on the 3d of April, issued a proclamation in the following words:

"Whereas in the prosecution of the Indian war, circumstances have existed affording such grave cause of suspicion, such that certain evil disposed persons of Pierce county have given aid and comfort to the enemy, as that they have been placed under arrest and ordered to be tried by a military commission; and whereas, efforts are now being made to withdraw, by civil process, these persons from the purview of the said commission.

Therefore, as the war is now being actively prosecuted throughout nearly the whole of the said county, and great injury to the public, and the plans of the campaign be frustrated, if the alleged designs of these persons be not arrested, I, Isaac I Stevens, Governor of the Territory of Washington, do hereby proclaim MARTIAL LAW over the said county of Pierce, and do by these presents suspend for the time being and till further notice, the functions of all civil officers in said county.

Given under my hand at Olympia, this third day of April, eighteen hundred and fifty-six, and the year of Independence of the United States the eightieth.

ISAAC I. STEVENS."

This document it will be observed, alleges no other motive, than that the persons so arrested, without warrant, and by the sole authority of military force, were about to sue out the great *writ of right*, to relieve themselves from illegal confinement.

It is to be observed, that there was at this time in the county of Pierce, three companies of United States troops, under command of a veteran and energetic officer. There were also one or more volunteer companies, engaged in scouting; the Indians had been driven from the settlements,

to take refuge in the woods, and if any danger had ever existed, of communication between these persons and the enemy, it had ceased.

Following upon the heels of this extraordinary document, which was *without seal and without attestation*, which found no other publication than the transmission of written copies to a few military officers, the persons so charged were taken once more from the county of Pierce, and removed by a military guard to Olympia, out of the district where martial law had been proclaimed. Yet notwithstanding this removal of the suspected parties, the proclamation was continued in existence, and the volunteer officers directed to enforce it.

After a few days some of the persons so arrested, were permitted to return on their parole to Steilacoom, while the others were, and are still in custody at the seat of government, and, as is reported and believed are to be tried by a military commission of volunteer officers, to be held in Pierce county, on a charge of treason against the United States.

The United States Judge, assigned to this judicial district, being detained at home by severe illness, at the time when by law the term of the District court was to be held, the Hon. Edward Lander, Chief Justice of this territory, who resides in the adjoining district, at the special written request of Hon. Judge Chenoweth, undertook to hold said court and on Monday the 5th May inst. arrived at Steilacoom and opened the court in due form. Having been informed, however, on his way to the court by Lieut. Col. B. F. Shaw, commanding a volunteer force under authority of the Governor of this territory, that if he attempted to hold said court, he would be forcibly prevented. Judge Lander, in order to prevent a collision between the executive and judicial authority, suggested that he would simply open and adjourn the court until Wednesday, that the Governor might be advised to withdraw his proclamation.

About three days previous to opening court, Col. Shaw, commanding the volunteer forces, who had received written instructions from Gov. Stevens to enforce Martial law until further orders, being directed at the same time to inform him immediately if in his opinion it was no longer necessary, had written by express to the Governor, stating that no occasion existed in the county for its continuance, informing him that important business was to be transacted before the court and recommended that in consequence, the proclamation be abrogated. Judge Lander now himself wrote to Governor Stevens, informing him of the course he had taken; that there were important causes to be tried before the court, one of which, the suit of the U. S. *vs* the former Collector of Puget Sound, ought to be tried; that there was imminent danger of a collision between the civil authorities and the military, and recommending that martial law be at once abrogated, especially as the present condition of the county seemed not to require it.

In reply Governor Stevens on the 6th, inst. while declining to withdraw his proclamation, suggested that Judge Lander adjourn his court to the first Monday in June, and informed him that he had examined the law, and found no difficulty in his adjourning from any time to the next term of court.

Upon the receipt of this information, Judge Lander, having done his

duty as a citizen in endeavoring to prevent the expected collision, proceeded to fulfil those of his judicial office by opening court at the appointed time, accompanied by the Clerk, U. S. deputy Marshal and Sheriff, he went to the court house, opened the court by proclamation in usual form, and caused the Grand Jury to be empannelled and sworn. During this time a company of volunteers, (many of them citizens of Oregon, although enrolled in this territory) drawn from Clark county on the Columbia river, entered the court room with loaded rifles and drew up without the bar, another company was kept in reserve without, to assist them if necessary. Judge Lander then directed the deputy Marshal to prevent the entry of any armed men within the bar, but the commanding officer having announced that he acted under orders from Governor Stevens, directed his men to arrest the Judge and Clerk. In obedience to that order they entered the bar, the deputy Marshal being unable to prevent it, and arrested the Judge in his seat; the Judge stating that he only succumbed to force, and declined calling upon the *posse comitatus*, because he wished to avoid bloodshed. Judge Lander and the Clerk, J. M. Chapman were then removed by the military from the court house, and on the same day taken out of the county, and carried to Olympia. The records of the court, which were at first seized, were subsequently returned to the deputy clerk.

During this time the citizens present, though manifesting a deep feeling of indignation at the transaction, refrained from any disorderly or violent acts. The conduct of Judge Lander was, throughout dignified, firm and worthy of his high position, and was, we are satisfied, dictated only by a strict sense of duty.

Upon these facts the committee report the following resolutions:

Resolved, that we look upon the act this day perpetrated by an armed force under the authority of Gov. I. I. Stevens, in arresting the Judge and Clerk of this judicial district, as an outrage, which if tamely submitted to, would be entirely subversive of our liberties.

Resolved, that as members of the Bar, we solemnly protest against this assumption of power by the Executive—that the doctrines of our profession teach us that there is no warrant for such a procedure—that the course of the Executive is without a precedent in law or justice, and that it is a violation of every principle of constitutional privilege and liberty.

Resolved, that the proclamation of Gov. Stevens suspending the writ of *habeas corpus*, was an improper exercise of authority and a usurpation unheard of in the history of our country; that the right of *habeas corpus* is one of the dearest to our people, the right more powerfully protected by the National Constitution than any other, its suspension being an exercise of authority only conferred upon Congress with extreme restriction and not inherent in any officer in our national confederacy.

Resolved, that the Governor's proclamation in showing that certain parties were arrested on a charge of *Treason*, in itself shows the necessity of a Court of Law for the trial of such prisoners—a military commission or court martial being incompetent to try men charged with such offences.

Resolved, that the peaceable manner of the citizens of Pierce County in submitting quietly and without resistance to the outrages this day inflicted upon them, shows conclusively, that no necessity exists for Martial Law; no exigency requires it, no public necessity invokes its aid.

Resolved, that the Judiciary of our country, is the palladium of our best rights, that its protection from outrage, is one of the first duties of a public

officer, its subversion a most despotic assumption of authority, that it is a separate branch of our institutions, independent of and not subservient to the *Executive*, and that the act of Gov. Stevens this day consummated, is a violent outrage upon law, and upon the rights of this people.

Resolved, that we unanimously tender to Chief Justice Lander our sympathies on this trying occasion; that his manly course in holding the court until surrounded by an armed *posse*, and forcibly removed from the Bench, merits our thanks: to him, to the deputy U. S. Marshal, and to the Clerk, we tender our thanks for their zealous effort to protect the Court House from invasion, and to maintain the dignity of the bench.

The report and resolutions were unanimously adopted, and on motion, the secretary of the meeting was instructed to forward a copy of the same to the President of the United States, our Delegate in Congress, the members of the committees on *Judiciary* and *Territories*, of both Houses of Congress.

On motion it was resolved, that the members of the Bar participating in this meeting, express their concurrence by appending their signatures to these proceedings.

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| | W. H. WALLACE. <i>Chr'n</i> |
| GEORGE GIBBS. <i>Sec'ty</i> | B. F. KENDALL. |
| ELWOOD EVANS. | WILLIAM C. PEASE. |
| C. C. HEWITT. | E. O. MURDEN. |
| FRANK CLARK. | H. A. GOLDSBOROUGH. |

MASS MEETING.

A meeting of the citizens of Pierce county, Washington Territory, was held at the Court House, in Steilacoom, on the seventh of May 1856, to take into consideration the outrage, committed by the Executive of this territory, upon the civil rights of its citizens. Thomas M. Chambers Esq. was called to the chair. E. Schroter was chosen secretary and E. M. Meeker assistant secretary.

On motion, W. H. Wallace spoke at some length, stating the object of the meeting to be the consideration of the outrage committed upon the civil rights of the people of this territory, by the violent and illegal seizure of the Chief Justice and the Clerk of the court of this territory, by the orders of the Executive.

On motion of J. M. Bachelder, George Gibbs Esq., also stated, in a brief and forcible manner his views on the same subject.

On motion, the Chair appointed, Messrs. Saml. McCaw, R. S. Moore

Hugh Patterson, W. R. Downey and W. M. Kincaide, as a committee to draft resolutions, expressive of the sense of the meeting on the occasion. The committee reported the following resolutions :

Whereas, Isaac I Stevens, Governor of Washinton Territory, has proclaimed Martial Law over the county of Pierce in said territory, and has this day by an armed force interrupted the proceedings of the United States district court by arresting the Judge and Clerk thereof, while in the legal discharge of the duties imposed upon them by their respective appointments, therefore,

Be it Resolved, by the citizens of Pierce county, assembled, that in declaring Martial Law over this county in order to suspend the writ of *Habeas Corpus*, the Governor has violated the civil rights of the citizens, and trampled their dearest privileges under foot. That while nearly all the citizens of this county have volunteered and served faithfully in this war now being carried on against the Indians, we have seen no feeling manifested, that justified the assumption by the Executive of all civil law, and the suspension of all legal protection.

Resolved, that Chief Justice Lander in the discharge of his official duties, has exhibited every disposition to avoid any collision between the Executive and Judicial authorities, consistent with the position in which he was placed by the Executive of the United States, and his manly course has won our sympathy and regard.

Resolved, that in the seizure of the Chief Justice of this Territory, while on the Bench in the quiet discharge of his duties, we recognize a usurpation of authority, unheard of in the annals of our free Republic, an indignity cast upon our Courts of Law, and upon a free people, ever holding themselves amenable to the civil authorities.

Resolved, that the tyrannical and despotic acts of the Executive of this territory, are such usurpations of law and authority as requires the interposition of the supreme authority of the United States; and that the secretary of this meeting be directed to transmit copies of these resolutions to the President of the United States, to our Delegate in Congress, to the Committees on the Judiciary and on Territories in each house of Congress, with a request that they will take such action thereon as may protect the people of this territory from future usurpation, and in the exercise of their civil rights and personal liberties.

S. McCRAW. *Chr'n.*

R. S. MORE.

HUGH PATTERSON.

WILLIAM M. KINCAID.

WILLIAM R. DOWNEY

The resolutions were unanimously adopted and the meeting adjourned without day.

THOMAS M. CHAMBERS, *Char'n.*

{ E. SCHROTER,
E. M. MEEKER, *Sect'ys.*