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## CORRESPONDENCE, EVIDENCE, &C.

### LEGISLATIVE PROCEEDINGS,

*In the General Assembly of the State of Missouri.*

HOUSE OF REPRESENTATIVES, THURSDAY, NOVEMBER 22, 1838.

On motion of Mr. Geyer,

The House resolved itself into a Committee of the Whole upon the state of the Republic—Mr. Emmons in the chair.

After spending some time therein, the committee rose, and their chairman reported: That the committee had under consideration the Governor's Message, to them referred, and have come to sundry resolutions thereon, which he reported as follows:

*Resolved*, That the Message of the Governor, communicated to the House on the 20th inst., be referred to committees as follows:

15th. So much as relates to the recent difficulties between the people called Mormons, and a portion of the people of this State, to a select committee of seven members, to act jointly with such committee as may be appointed by the Senate, with instructions to inquire into the cause of said disturbances, and the conduct of the military operations in suppressing them, with power to send for persons and papers.

IN SENATE, FRIDAY, NOVEMBER 23, 1838.

On motion of Mr. Monroe,

The Senate took up the joint resolution of the House of Representatives relative to the late difficulties with the Mormons, which was concurred in, and Messrs. Turner, Noland and Scott were appointed a committee on the part of the Senate, to carry the above resolution into effect.

IN SENATE, TUESDAY, DECEMBER 18, 1838.

Mr. Turner, from the joint committee on the Mormon investigation, submitted the following report, preamble and resolutions:

The joint committee to whom was referred so much of the Govern-

nor's Message as relates to the recent difficulties between the people called Mormons, and a part of the people of this State, with instructions to inquire into the causes of said disturbances, and the conduct of the military operations in suppressing them, have taken the same under consideration, and would respectfully submit the following report and resolutions:

They have thought it unwise and injudicious under all the existing circumstances of this case to predecate a report upon the papers, documents, &c., purporting to be copies of the evidence taken before an examining court, held in Richmond, in Ray county, for the purpose of inquiring into the charges alleged against the people called Mormons, growing out of the late difficulties between that people, and other citizens of this State.

They consider the evidence adduced in the examination there held, in a great degree *ex parte*, and not of the character which should be desired for the basis of a fair and candid investigation. Moreover, the papers, documents, &c., have not been certified in such manner, as to satisfy the committee of their authenticity.

It has been represented to them that the examining court have sent on for further trial, many of that class of citizens called Mormons, charged with various crimes and offences: under the charge of treason, six; for murder and as accessaries thereto, before and after the fact, eight; and for other felonies, twenty-seven. Special terms of the Circuit Court are expected to be held in the several counties, in which the above mentioned crimes are represented to have been committed. Grand Juries will then have those charges against said people before them, and must act upon the same documentary evidence which the committee would necessarily be compelled to examine, by which circumstance two co-ordinate branches of this government may be brought into collision—a contingency that should be studiously avoided and cautiously guarded against.

Another insuperable objection that has presented itself to the mind of the committee, and which would induce them to suspend an investigation, under present and existing circumstances, would be the consequences likely to result from a publication of their report. Those persons who have been sent on for further trial, have guaranteed to them the sacred and constitutional right of "a speedy trial by an impartial jury of the vicinage," and if the guilt of the accused should be confirmed by the report of the committee, it would so prejudice public sentiment against them, as to deprive them of that right, which should not be taken away by any consideration involved in this inquiry.

If the committee were to find it necessary in the prosecution of their object, to have access to the papers, documents, &c., connected with this difficulty, the probable interference of the several courts being in session, might seriously interrupt their views. It might reasonably be expected that all the evidence of every description, would be in the possession of the courts, to be used on the final trial, and by that means the investigation would be protracted to a much greater length

than would be necessary under different circumstances. They would therefore recommend, in order to avoid all the difficulties that have been presented, that a committee, after the adjournment of the General Assembly, go into the vicinity of the scene of difficulties, and make their investigation, and report at such time, and in such manner, as the Legislature may direct. If this course should be adopted, the committee believe that the session would be much shortened, and heavy expenses saved to the State, which otherwise would necessarily be incurred in sending for witnesses, and bringing them from so great a distance. By a resolution of both Houses, the special Message of the Governor in relation to the subject of inquiry, with the accompanying documents, was referred to this committee, with instructions to select such documents as in their opinion, ought to be published with the Message, and report to their respective Houses. The committee after a full consideration of the subject, with due regard to its importance, are of opinion that it is inexpedient at this time, to publish any of the documents, under the authority of the General Assembly, and submit to the two Houses the leading reasons for that opinion.

The documents may be divided into several classes:

- 1st. The affidavits and correspondence preceding each series of authorized military operations.
- 2nd. The orders issued upon such evidence.
- 3rd. The military operations and correspondence consequent thereon; and
- 4th. The evidence taken before a court of inquiry, held for the investigation of criminal charges against individuals.

It was found by the joint committee, at an early period after their organization, that, in order to a full and satisfactory investigation of the subjects referred to them, a mass of additional testimony, oral and written, would be required. This becomes apparent to the committee, from the contents of the documents referred to them. These documents, although they are serviceable in giving direction to the course of inquiry, are none of them, except the official orders and correspondence, such as ought to be received as conclusive evidence of the facts stated; nor are their contents such as would, without the aid of further evidence, enable the committee to form a satisfactory opinion in relation to the material points of the inquiry.

The copy of the examination taken before the criminal court of inquiry, is manifestly not such evidence as ought to be received by the committee:

- 1st. Because it is not authenticated; and
- 2nd. It is confined chiefly to the object of that inquiry; namely: the investigation of criminal charges against individuals under arrest; for these reasons, but above all, for the reasons that it would be a direct interference with the administration of justice, this document ought not be published, with the sanction of the Legislature.

The committee concludes, that it would not be proper to publish the official orders and correspondence between the officers in command, and

the Executive, without the evidence on which they were founded; and that evidence is not sufficiently full and satisfactory to authorize its publication. To publish the whole together might tend to give a direction to the public mind, prejudicial to an impartial administration of justice in pending cases, while it will not afford the means of forming any satisfactory conclusion as to the cause of the late disturbances, or the conduct of the military operations in suppressing them.

The committee therefore recommend to each House to adopt the following resolutions:

*Resolved*, That it is inexpedient at this time, to prosecute further the inquiry into the causes of the late disturbances and the conduct of the military operations in suppressing them.

*Resolved*, That it is inexpedient to publish at this time, any of the documents accompanying the Governor's Message in relation to the late disturbances.

*Resolved*, That it is expedient to appoint a joint committee, composed of \_\_\_\_\_ Senators, and \_\_\_\_\_ Representatives to investigate the cause of said disturbances, and the conduct of the military operations in suppressing them, to meet at such time, and to be invested with such powers as may be prescribed by law.

IN SENATE, THURSDAY, JANUARY 10, 1839.

Mr. Campbell offered the following as additional to the resolution of the House:

*Resolved by the Senate, the House of Representatives concurring therein*, That the three foregoing resolutions be referred to a joint committee of the two Houses, heretofore raised on the subject of the Mormon difficulties, with instructions to report a bill in conformity thereto, as soon as they can conveniently prepare the same; which was agreed to.

IN SENATE, WEDNESDAY, JANUARY 16, 1839.

Mr. Turner from the joint select committee asked and obtained leave to introduce "a bill to provide for the investigation of the late disturbances in this State." Which bill is as follows:

#### A BILL

TO PROVIDE FOR AN INVESTIGATION OF THE LATE DISTURBANCES IN THIS STATE.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

§ 1. A joint committee shall be appointed to investigate the causes of the late disturbances between the people called Mormons, and other inhabitants of this State, and the conduct of the military operations in repressing them: which committee shall consist of two Senators, to be

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elected by the Senate, and three Representatives, to be elected by the House of Representatives.

§ 2. The committee shall meet at Richmond, in the county of Ray, on the first Monday of May next, and shall thereafter meet at such times and places as they shall appoint, as most suitable for the effectual discharge of the duties enjoined on them by this act.

§ 3. Such committee shall have power to choose a Chairman, to appoint a Clerk, a Sergeant-at-Arms, and as many Assistants, not exceeding two, as they shall deem necessary for the prompt execution of process issued by them.

§ 4. A majority of the committee shall constitute a quorum to do business; but any one or more, though less than a majority, attending at the time and place previously appointed for a meeting, may adjourn for a period not longer than two days at a time; but no number less than a majority, shall be competent to adjourn to any place other than that previously appointed by the committee.

§ 5. The committee shall have power to issue subpoenas and compulsory process for witnesses, to compel the production of books, papers, and other evidences, to punish contempts committed in their presence, tending to disturb or interrupt the committee or its officers in the execution of its duties, to the same extent as a court of record.

§ 6. Subpoenas and other process shall be under the hand and private seal of the chairman, and countersigned by the clerk, and shall be executed by the sergeant-at-arms or one of his assistants.

§ 7. The clerk, sergeant-at-arms, and his assistants, shall before entering upon the duties of their respective offices, take an oath to support the constitution of the United States and of this State, and to demean themselves faithfully and vigilantly in their respective offices.

§ 8. The chairman and each member of the committee, shall have power to administer oaths to officers and witnesses to the same extent and with like effect as a court of record or a judge thereof.

§ 9. The sergeant-at-arms and his assistants, shall have power to execute process directed to them, in any county in this State, to the same extent and with the like effect, as any sheriff now has within his county.

§ 10. It shall be the duty of the clerk to keep a regular record of the proceedings of the committee, to record the evidence taken, and to file and preserve all papers and documents, appertaining to the duties of the committee, and to perform such other duties as may be required of him by the committee, and appropriate to the nature of his office.

§ 11. It shall be the duty of the committee to issue all necessary process, to cause to be exhibited to them all papers and documents tending to aid in the object of the enquiry, to cause persons having knowledge of any facts material to the enquiry, to appear and testify before them, to cause a journal of their proceedings to be kept, and a record of the testimony taken by them to be made and preserved.

§ 12. As soon as the committee shall have completed the duties hereinbefore enjoined, they shall make a report, setting forth the facts

which in their opinion are established by the evidence, together with their opinion thereon, as to the causes of the disturbances, and the conduct of the military operations in suppressing them.

§ 13. If in the opinion of the committee a meeting of the General Assembly, before the time appointed by law, will be necessary, to act on their report, and the evidence taken by them, they shall communicate their reasons for such opinion in writing, together with a copy of their report, to the Governor.

§ 14. The original report, records, evidence, papers and documents, relating to the enquiry, shall be deposited in the office of the Secretary of State, within thirty days after the enquiry shall be concluded.

§ 15. If a proclamation convening the legislature shall not be issued within twenty days after the deposit of the report, records and documents in the office of the Secretary of State, it shall be the duty of the Secretary of State to cause the report and evidence to be published in book form, and distributed in the same manner as the journals of the General Assembly.

§ 16. The members of the committee shall receive the same pay and travelling allowance as members of the General Assembly; the clerk shall be allowed at the rate of four dollars per day for his services; the sergeant-at-arms and assistants, shall receive for each arrest one dollar and fifty cents, for summoning each witness fifty cents, and travelling allowance, at the rate of eight cents per mile he shall necessarily travel in going from the place of sitting of the committee, to serve process and returning.

§ 17. Witnesses shall be allowed for each day's attendance, one dollar and five cents per mile they shall necessarily travel, in going to and returning from the place of the sitting of the committee.

§ 18. The committee shall have power to have a room wherein to hold their sittings; to purchase stationery and other things necessary in the discharge of their duties.

§ 19. All accounts shall be audited by the committee, and on certificates thereof, signed by the chairman and countersigned by the clerk, being produced to the Auditor, he shall issue his warrant for the amount on the State Treasury.

§ 20. The compensation of the members of the committee and their clerk, shall be paid out of the appropriations for the pay of the General Assembly; all other expenses shall be paid out of the appropriation for the contingent fund of the General Assembly.

§ 21. The expenses for printing and distributing the report of the committee with the documents, shall be paid for out of the appropriations for printing: and warrants shall be drawn therefor, by the Auditor on the certificate of the Secretary of State.

§ 22. If a vacancy shall happen in said committee, the chairman for the time being, shall immediately notify the presiding officer of the House in which the vacancy happens thereof, and such officer shall immediately supply such vacancy, by designating a member of the proper house to serve on the committee.

§ 23. This act shall take effect from and after its passage.

Which was read a first time, and on motion of Mr. Turner,

The rule requiring bills to be read on three several days being dispensed with, the bill was read a second time, referred to the committee of the whole House, and ordered to be printed for the use of the members of the General Assembly.

IN SENATE, THURSDAY, JANUARY 31, 1839.

A bill to provide for an investigation of the late disturbances in this State, was read a third time.

Mr. Rawlins offered the following amendment to come in by way of ryder:

"Strike out the 13th section, and the first and second lines of the 15th section to the word "State" inclusive." Which was read a first and second times, and objections being made, the question "shall the ryder be rejected?" was decided negatively as follows:

AYES—Messrs. Campbell, Conger, Darby, Deguire, Gilliam, McDaniel, Miller, Morin, Montgomery, Noland, Pratt, Scott, Sterigere, Turner and Thompson—15.

NAYS—Messrs. Ashby, Byrd, Danforth, Gentry, Glascock, Gorham, Grimsley, Hunter, Hyatt, Jones of Cooper, Jones of Pike, Maupin, McIlvaine, Monroe, Penn, Rawlins and Watts—17.

ABSENT—Mr. Alford.

The ryder was read a third time, and the question, "shall the ryder and bill pass?" was decided affirmatively, as follows:

AYES—Messrs. Ashby, Campbell, Conger, Danforth, Darby, Deguire, Gilliam, Grimsley, Hyatt, Jones of Cooper, McDaniel, McIlvaine, Miller, Morin, Montgomery, Noland, Penn, Pratt, Sterigere, Scott, Turner and Thompson—22.

NAYS—Messrs. Byrd, Gentry, Glascock, Gorham, Hunter, Jones of Pike, Maupin, Monroe, Rawlins and Watts—10.

ABSENT—Mr. Alford.

HOUSE OF REPRESENTATIVES, MONDAY, FEBRUARY 4, 1839.

The bill from the Senate, entitled "an act to investigate the late disturbances in this State," was read a first time, when Mr. Wright moved that the bill be laid on the table, until the 4th day of July next, and upon this question Mr. Primm desired the ayes and nays, which were ordered, and decided in the affirmative, as follows:

AYES—Messrs. Acock, Ashby, Biggs, Bollinger, Booth, Brown of Franklin, Burckhartt, Canole, Cannelax, Caldwell, Carson, Carstarphen, Chiles of Jackson, Clark of Linn, Cowan, Enloe, Emmerson, Fisher, Fulkerson, Gore, Hall, Hancock, Harris, Hickeox, Holliman, Jackson of Audrain, Jackson of Howard, Kemp, Kincheloe, McLean, Miller, Minnis, Montgomery of Benton, Montgomery of Pulaski, Morehead, Morin, Morris, Persinger, Polk, Ritchie, Russell, Smith, Thompson, Wat-

son, Williams of Cape Girardeau, Williams of Van Buren, Wilkes and Wright—48.

*NAYS*—Messrs. Atchison, Bogy, Bowering, Brown of Scott, Burt, Burgee, Caulk, Chiles of Franklin, Clark of St. Louis, Coalter, Curd of Callaway, Curd of Marion, Deatherage, Elston, Emmons, Frost, Geyer, Harris, Hickman, Holeman, Hudspeth, Huston, Jarrell, Jones, Manning, Netherton, Pratt, Primm, Redman, Rollins, Sappington, Young of Callaway, Young of Lafayette and Mr. Speaker—37.

*ABSENT*, (sick)—Messrs. Corrill and Kelly.

*ABSENT*—Messrs. Gordon, Mason, Reese, South and Woodson.

### CORRESPONDENCE.

*S. M. Smith, a Mormon, to the Governor.*

KIRTLAND, OHIO, MARCH 21, 1839.

I beg leave to present to your Excellency a petition, praying your assistance in a matter of vital importance to me, and to my friends. I have received by letter, from the widow and others, the following facts respecting the murder of a brother in your State, by the name of Warren Smith: He was a Mormon, (the only one of the connexion.) He set out for Far West, Mo., last summer, because he believed it (as he said,) his duty to go. This was a misfortune to be visited, not a crime to be punished. When he, in company with three or four other families, had arrived to within a short distance of the end of their toilsome journey, they were informed that the roads were strictly guarded, and to proceed further would be disastrous; they consequently halted at Shoal Creek, and encamped in the edge of a prairie, when they were attacked, on the 6th of November, by an armed force of two or three hundred. The women and children fled to the woods, the men and boys to a log blacksmith shop. The ruffians instantly surrounded the latter, and in a few minutes massacred about twenty. After the roar of death had ceased, and the inhuman banditti retired, the women crept silently from their hiding places, and selected each, her own husband from among the mingled and mangled slain, wiped the warm flowing life blood from their wan cheeks, snatched a hasty kiss, and buried their lifeless remains in a deep narrow tomb together, (viz: a well,) and fled again to the thick circling shade of the gloomy forest, to escape a like or a worse fate, and now wander friendless and pitiless, without money or means, in a strange land, a land of enemies! Thus perished my brother and a little son of his about ten years of age, who begged hard for his life, but was shot through the head in cold blood, after the excitement of the battle was over.

If there is philanthropy in Missouri, let it be exercised in relieving the sufferings of these widows and orphans. If there is power in the laws, or energy in the executions of Missouri, let them be put in execution, to bring to condign punishment the perpetrators of this barba-

rous deed. This is my petition! Will it be heard? Will the Governor of Missouri see that the laws of his State are executed, and the suffering of innocent widows and orphans assuaged? I have not sought to procure the signatures of any, but choose to present my name singly in the name of the sufferers. I appeal to your humanity as a man, and your authority as Governor of Missouri, hoping that it will not be in vain. It is said and believed by many, that your proclamation authorized the extermination of the Mormons. I can hardly believe this possible. I think it would go to legalize murder and robbery, and be incompatible with your constitutional powers.

In your answer, address S. M. Smith, Kirtland Mills, Georgia county, Ohio.

I have the honor to subscribe myself,

Your humble and obedient servant,

S. M. SMITH.

*To His Excellency, L. W. Boggs,*

Governor of Missouri.

### EXTRACT FROM GOV. BOGGS' MESSAGE OF 1840.

Since your last session, the unpleasant difficulties between a portion of the citizens of our State and the Mormons have entirely subsided, with the exception of some slight interruptions on our north-eastern border.—After that infatuated and deluded sect had left our State, they industriously propagated throughout the Union, the most exaggerated details of our difficulties and the foulest calumnies against our citizens. In some of our eastern cities, missionaries of their creed were employed, daily making converts to their cause by proclaiming the cruelties which they alleged they had endured at the hands of our authorities. The report of our alleged barbarities has not been confined to our Union, but even at this day in Europe they are made the ground-work of proselyting, and their orators find it to their interest to distort the acts into a persecution, which in every religious excitement that has marked the history of the earth, has always been found the most effective weapon of conversion.

In all intestine commotions, particularly when mingled with religious fervor, it frequently happens that cases occur of peculiar hardship and unusual distress, and when public sympathy is excited in their behalf, these unavoidable consequences of civil dissension may easily be magnified into barbarous cruelty—that such cases arose in the course of the difficulty, I do not doubt.—But they must be attributed to the excited nature of the contest of the parties and not to any desire on the part of our constituted authorities to wilfully or cruelly oppress them.

These people had violated the laws of the land by open and avowed resistance to them—they had undertaken without the aid of the civil authority to redress their real or fancied grievances—they had instituted among themselves a government of their own, independent of and in opposition to the government of this State—they had, at an inclem-

Georgia