



Type: Magazine Article

The Laws of the Nephites: Liberty of Conscience

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Source: *Juvenile Instructor*, Vol. 15, No. 4 (15 February 1880), pp. 46–47

Published by: The Church of Jesus Christ of Latter-day Saints

Abstract: Discusses the Nephite political system under the monarchy and judges. Also considers legal matters under the judges, such as procedures for being heard as the “voice of the people,” various sanctions for crime, and treatment of prisoners of war.

upon it. We anointed it, and while administering to it I seemed to see the child at different stages until it was grown. I blessed it accordingly to live, and told its mother it would get well. The child seemed to remain in the same condition until the next day about three o'clock. The major had come up and changed the orders of the previous evening, which were for me to tell the Indians to go on with their harvesting, as he would not disturb them; but now the orders were if the Indians had not broken camp by 12 o'clock the next day, and started for some reservation, he should use force and drive them to one. Now, as I was going to the camp to get the Indians to leave, I met Tat-toosh, who told me that the child was dead. I said, "No, I cannot believe that the child is dead." He said it was, and that its mother and friends were crying about it. I had no time to go and see it, as I had to hurry to the camp. They had no time to bury the child there, consequently, they wrapped it up in its blankets, and packed it on a horse until they would have time to bury it. It took some three hours to get the camp on the move, and after carrying the child in that way some ten miles, they discovered that it was alive. This was on Thursday, and on the Sunday following I saw its father in Cache Valley. He said he never saw a child get well so fast in his life; and it is now quite fat and hearty.

THE LAWS OF THE NEPHITES.

BY G. R.

(Continued.)

LIBERTY OF CONSCIENCE.

THE statement is frequently made, though in slightly different phrases, that the law had no power to punish a man for his belief (p. 235) "for it was strictly contrary to the commands of God that there should be a law which should bring men on to unequal grounds" (p. 321). If a man "believed in God it was his privilege to serve Him, if he did not believe in Him, there was no law to punish him. * * A man was punished only for the crimes he had done: therefore all men were on equal grounds" (p. 321). Unbelief was handled by the church, not by the civil law. The names of those whose hearts were hardened were "blotted out and they were remembered no more among the people of God." During the days of the judges there was no church by law established: when the people served God, they elected righteous men for their rulers, when the masses fell into unbelief and transgression they chose Gadianton robbers and such like to administer their laws.

If the rights of women, under the law, were any different, more or less, than those of men, we have no information; in fact, the inspired record is entirely silent on this subject.

The criminal law inflicted the death penalty for murder, rebellion and treason; for robbery, theft, adultery, sexual abominations, fraud and lying, lesser punishments were inflicted (p. 234, 321, 358, etc.)

The first recorded case of execution for murder under the rule of the judges is that of Nehor, for killing the aged patriot, Gideon (p. 234). Another noteworthy case is that of Paanchi, the son of Pahoran, of whom it is written that he was "tried according to the voice of the people, and condemned unto death; for he had raised up in rebellion, and sought to destroy the liberty of the people" (p. 429).

No high priest, judge nor lawyer had power to inflict capital punishment. When a man had been tried and condemned to death by the law, his condemnation had to be signed by the governor of the land, before the sentence could be carried out (p. 491). The mention of governor in this relation, with other passages in which the chief judge and governor are spoken of as different persons (see p. 482) suggests the idea that as the Nephites grew in numbers and spread over distant regions, the duties of the chief judge became excessive, and a separation was made between the executive and judicial responsibilities, and divided between two officers.

The mode of inflicting the death penalty is not stated, but we incline to the idea that hanging was often resorted to. Military offenders were, as a rule, put to death with the sword. Of Nehor it is said that he suffered an ignominious death, at the top of the hill Manti, and that, before his death, he acknowledged "between heaven and earth" that he had taught false doctrine (p. 234). Zemnarihah was hanged upon the top of a tree "until he was dead," and then the Nephites felled the tree to the earth (p. 486). Many of the martyrs were burned to death by unjust judges, or stoned, as was Timothy, one of the Twelve Disciples and the brother of Nephi; but we regard this last act as resulting from the violence of a mob, rather than from any pretended execution of the law.

The law with regard to debtors seems to have been somewhat severe. On this point it is stated (p. 265), "Now if a man owed another, and he would not pay that which he did owe, he was complained of to the judge; and the judge executed authority, and sent forth officers that the man should be brought before him; and he judged the man according to the law and the evidences which were brought against him, and thus the man was compelled to pay that which he owed, or be stripped, or be cast out from among the people as a thief and a robber." If a man desired to pay, but could not, from misfortune, we doubt not but that the law contained some merciful provision in his behalf.

It is more than probable that the mode of procedure in all criminal cases very much resembled the one cited above, and from it we can gather a very clear idea of the practice of their courts, which differs but little from that of our own day. The complaint was first made, the proper officer was then authorized by the court to arrest the accused and bring him before the judge, the trial then took place, the witnesses gave their testimony, the law and the evidence were examined, the opposing lawyers were heard, the judgment was given, the sentence pronounced and lastly carried out. In times of war the military code seems to have varied according to the exigencies of the situation. As a rule, the Nephite armies were composed of volunteers (p. 422). In times of great danger to the republic, enlarged powers were given to the commander-in-chief. In one place we find the statement (p. 372), that Moroni, having been appointed by the chief judge and the voice of the people, "had power according to his will with the armies of the Nephites, to establish and to exercise authority over them;" also, "he caused to be put to death" those of the Amalickiahites (rebels) who would not enter into a covenant to support the cause of freedom and the rights of their fellow-countrymen.

Prisoners of war were evidently treated much the same as in modern civilized nations. Indeed, in one place, the fact that the necessities of his position compelled Moroni to set his Lamanite prisoners to work, is referred to in somewhat of an apologetic tone (p. 395). When such prisoners attempted to escape,

they were slain by their guards. We have numerous instances where prisoners were released on parole, or on their giving such promises as were thought necessary to the Nephite general.

It frequently happened, during the days of the judges, that the Nephites, in some of their periodical spasms of apostasy and wickedness, would clamor for changes to be made in their just and wise laws, in a manner to better suit their degraded habits and course of life. When the majority of the people were on the side of righteousness, these attempts were in vain. When wickedness abounded, the corrupt majority carried their points. The record of their history shows, that in the sixty-second year of the judges, (B. C. 30), they had altered and trampled under their feet the laws of Mosiah, or that which the Lord had commanded him to give unto the people" (p. 438); and that their laws had become corrupted, and they a wicked people like unto the Lamanites (p. 439). Seven years later the corruption of the people had become pitiable. The Gadianton robbers were "filling the judgment seats; having usurped the power and authority of the land; laying aside the commandments of God, and not in the least aright before Him; doing no justice unto the children of men; condemning the righteous because of their righteousness; letting the guilty and the wicked go unpunished, because of their money; and moreover to be held in office at the head of government to rule and do according to their wills, that they might get gain and glory of the world; and moreover that they might the more easily commit adultery, and steal, and kill, and do according to their own wills" (p. 448). Such a condition of affairs, in the course of time, wrought national disintegration, and would have brought about that result much sooner than it did, had it not been, that, influenced by the mighty preaching of the inspired servants of God, the Nephites (or portions of them) had now and again returned to the service of heaven. But such happy periods were short-lived, and matters went from bad to worse until thirty years after the birth of Christ, when the republican form of government was entirely broken up, and the people split up into numerous tribes, each tribe caring only for its own interests, and each giving obedience to its own particular chief. This state of things continued only for about four years, as during the terrible convulsions at the time of the crucifixion of our Lord Jesus Christ, the more wicked portion of the people were destroyed.

(To be Continued.)

INDIAN CUSTOMS AND TRADITIONS.

BY H. PRATT.

WHILE traveling and preaching among the various tribes of Indians who inhabit Arizona, New Mexico and Chihuahua and Sonora, of old Mexico, I learned many things pertaining to their traditions, manners, customs, etc. The Apaches of Arizona are a very numerous nation, consisting of a number of tribes, who have been, and some are still, at war with the whites. They have no houses or towns, but dwell in tents and rude wigwags, which afford them but poor shelter from the sun, wind or rain.

They make their raids through southern Arizona and New Mexico, killing the ranchmen and running off their stock, etc. When pursued by the troops, they hasten to cross the line into old Mexico. In course of time they repeat their depredations

on the people of that country, and return again to United States soil.

In talking with a Mexican, who had been many years a captive among these Indians, I learned that they had a tradition among them to the effect that their forefathers were once the sole proprietors of this American continent, and that no other people then dwelt upon this land. And they still believe they (the Apaches) will come in possession of it again. Now, this agrees with the Book of Mormon, so far as their once having possessed this land is concerned, and no doubt many of the descendants of father Lehi will yet have an inheritance on this continent.

This people, although warlike, and very degraded in many respects, have a very great respect for virtue, and they have very strict laws in this regard. If it is suspected that a person has been untrue to his marriage vow he is tried by a council of the tribe, and, if found guilty, the fleshy part of his nose is cut off from his face, thus leaving a mark that all can see, as a penalty for his crime.

I will here say that the Apaches are polygamists, and that wherever we found Indian tribes practicing polygamy, according to all accounts, they were much more virtuous than the monogamist tribes.

At El Paso, there are some two hundred Pueblo Indians living, who have their organization as a tribe, and hold regular meetings, independent of the Catholic church, although they are all Catholics. When we visited this place we found one young Indian who believed our testimony; but his father, a very old man, and a strong Catholic, could not at first see as his son did, and this caused considerable discussion between them at different times. At the close of one of these discussions, the father said: "My son, I have something which I wish to tell you. It is a tradition which has been handed down in our tribe from father to son, for many generations. According to this tradition there were three great events to occur in the history of the Indians of Mexico. Two of these we claim have already taken place, but the other is still in the future. The first of these was that a white race should come among us who would conquer us with the sword, take from us our rights, and bring us into servitude. We claim that this was fulfilled by Cortez and the Spaniards conquering Mexico. The second great event was that we should rise up and free ourselves of the yoke of tyranny and oppression, and become a free people again. We claim that this has also taken place—that Juarez (who was a native Indian) and his followers did throw off this yoke, and establish a free government in Mexico. Now the third, which is not yet fulfilled, is that another white race is to come among us, and go through and conquer the entire people; not with the sword, but with the words of truth. Now, my son, you say these men have come, and that they talk good, and that they claim to have the history of our forefathers. How do we know but they are the very men we have been looking for so many years?"

Porfirio Diaz, who is now president of Mexico, Almirano, the chief justice, and many of the other civil officers of that republic, as well as the officers of the army, are full blooded Indians; so that it may be said that the government of Mexico is really in the hands of the Indians, and that much of the tradition, at least, has been fulfilled. The time is probably not far distant when the fulfillment of the remainder of the tradition will be accomplished by thousands of the Indians in that region accepting the gospel as preached by our Elders.

There is a tradition among all the tribes we visited that their redemption is in the near future.