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Re. Stevens trial, May 12 - July 10, 1856, from Official Court records, 2nd District Court, Wash. Terr.

In late March, 1856, Charles WREN, John M'LEOD, L.A. SMITH, Henry SMITH and John M'FIELD, Pierce County residents, were arrested by order of Gov. Isaac STEVENS for alleged "giving aid and comfort to the enemy" (Indians). Within two days of their arrest, Lawyers Frank CLARK and W.H. WALLACE on behalf of the defendants prepared a Petition for a Writ of *Habeus Corpus* for their release. Learning that the application was to be made, Gov. STEVENS proclaimed Marshal Law on April 3, 1856, partially in an attempt to circumvent the legal process.

It was not until Court convened on May 12, 1856, that the prisoners were able to present to the Court by their Attorneys a Petition for a Writ of *Habeus Corpus*, challenging Gov. Isaac I. STEVENS to show cause "why said defendants are now and for many days past, been confined and held in imprisonment without Law or Right".

Much has been written about this and related issues. (See selected references). In a recently acquired original Court Ledger for the 2nd Judicial District, Washington Territory, 1854 - 1859, proceedings of this trial are herewith transcribed as they occurred on pp 112 - 122, May 12 - July 10, 1856.

Selected references:

STEVENS, Hazard. 1900. Life of Isaac Stevens. Vol. II, Chap. XLII, pp 247-250.

SNOWDEN, Clinton A. 1909. History of WA. Vol. III, Chap. XLVIII, pp 484 - 494.

HUNT, Herbert & F.C. Kaylor. 1917. WA: West of the Cascades. Vol. I, pp161-166.

Prepared on this day, Feb. 17, 2001 by
Sherburne F. Cook, Jr.

Official Court Record, Wash.Terr. 2nd Judicial District, 1855-1859.

STEVENS TRIAL, pp 113 - 122.

(Begin, May 12, p 113). United States of America (i.e.) Lyon A. SMITH, John M'LEOD, Charles WREN, Henry SMITH, and John M'FIELD vs. Isaac I. STEVENS. In petition for Writ of Habeus Corpus to The Hon. Edward LANDER, Chief Justice, Washington Territory and Judge W.T. District Court of the 2nd Judicial District. At Chambers.

And now, May 12, 1856, said petitioners (above named) , by their council, exhibiting their Complaint and Petition, in words and figures following: Territory of Washington, Thurston County. To the Hon. Edward Lander, Judge of the Dist. Court of the U.S. for the 2nd Judicial Dist. of W.T. The Complaint and Petition of Relators (Plaintiffs) respectfully showeth that they now are and for many days last past, have been confined and holden in Imprisonment without law or right, In Olympia...by Isaac I. STEVENS, Governor, W.T., charged as is alleged by proclamation of said Executive with the supposed crime of "affording aid and comfort to the enemy". Wherefore they pray your Honor to issue a Writ of Habeus Corpus to bring your petitioners together with the cause of their capture and detainer before your Honor, to the end that what appertains to Justice may be done...(signed) WALLACE, KENDALL and CLARK, Petioners Atty's.

This May 12th, 1856, T. of W., Henry SMITH and John M'FIELD, two of the within named Petitioners, being duly sworn according to law, do declare and say that the facts contained in the within Complaint and Petition are true so far as they know of their own knowledge, and so far as is derived from the information of others, they believe them to be true. (signed) Henry SMITH (and) John X [his mark] M'FIELD. Subscribed and sworn to before me this 12th day of May, 1856. (signed) B.F. Kendall, Notary Public.

(Begin p 114). And thereupon the said Judge did make an order in words following, that is to say...Whereas, I am informed by the petition of (named petitioners) that they are now and have been confined and holden in imprisonment by Isaac I. STEVENS...and whereas the said persons pray the issuing of the Writ of Habeus Corpus in their behalf, you are hereby ordered to issue the said writ of Habeus Corpus directed to the said Isaac I STEVENS, commanding him to bring before me at Olympia on Wednesday the 14th instant at 4:00 o'clock P.M. the bodles of said (petitioners), together with the cause of their capture and detainment (so) the legality of the detainment may be inquired into and Justice done. And be you then and there. Given under my hand and official signature this May 12, 1856 in chambers. (Signed) Hon. Edward LANDERS... To: Willam W. MILLER, Clerk, W.T. District Court, 2nd Judicial Dist.

And thereupon the Writ of Habeus Corpus issued, directed to Isaac STEVENS, Governor of W.T., returnable before the Honorable Edward LANDER at Chambers, on Wednesday, May 14, 1856.

(Begin May 14). And now May 14th, 1856 at 4 o'clock P.M. , come the Relators (Petitioners) by their attorneys. And the said Isaac STEVENS not appearing to make return to the said Writ of Habeus Corpus, the following order of notice is made by the Hon. Edward LANDER, Judge as aforesaid:

Ordered that the W.T. Marshal of the T. of W. be directed to notify Isaac I. STEVENS, etc., that Judge LANDER is now in Chambers ready to receive the return of the Writ of Habeus Corpus, made returnable this day, the 14th day of May, 1856. (Begin p 115). Given under my hand (signed) Edward LANDER.

And the W.T. Marshall did serve said notice, and endorsed thereon his return in the following words: "Served on the 14th day of May A.D., 1856". (Signed) Geo. W. CORLISS, Marshal for W.T.

And now the Relators (Plaintiffs) by their attorneys, move the Court to grant a Rule upon the said Isaac STEVENS to show cause if any be have why a Writ of Attachment should not issue against him for a contempt in not making a return to the Writ of Habeus Corpus returnable this day before the Hon. Edward LANDER...and it appearing to the satisfaction of the Court, that said unit of Writ of Habeus Corpus had

been duly served upon the said Isaac STEVENS by the W.T. Marshal as appears by his return in words following: "Came to hand the 12th day of May, 1856. Served the original, of which this is a true copy, personally upon Isaac I. STEVENS...at the Executive Office in Olympia on the day and year at 7 o'clock P.M.". (Signed) Geo W. CORLISS, W.T. Marshal. Said Rule is granted, returnable Thursday, May 15th, at 12 N. And the W.T. Marshal is ordered to serve said Rule upon the said Isaac STEVENS, Governor, etc.

(Begin May 15). And now, May 15th, 1856 at 12 o'clock N, come the Relators by their Attorneys, and the said Isaac STEVENS comes not, and on motion of the Relators that the Rule be made absolute and the Unit of Attachment issue, and it appearing to the satisfaction of the Court that the W.T. Marshal had served the said Rule as will appear by his return herein, in the following words: "Came to hand on the 14th day of May, A.D., 1856, served same day by placing a copy thereof in the hands of Defendant, Isaac I. STEVENS". (Signed Geo W. CORLISS, Marshal for W.T.

It is therefore ordered that said Rule be made absolute and that a Writ of Attachment issue returnable *instanter*. And therefore, the Unit of Attachment issued, directed to **(Begin p 116)** the W.T. Marshal. And afterwards on the day and year aforesaid, the said Marshal made the following return: "Come to hand the 15th day of May, A.D., 1856. I have attempted to serve the same by seizing the body of the Defendant but he forcibly resisted. I therefore summoned bystanders, who refused to assist me in the arrest on the day and year above mentioned". Signed, Geo. W. CORLISS, W.T. Marshal. And thereupon on motion of Relators, it is Ordered that an alias Writ of Attachment issue to take the body of Isaac I. STEVENS, directed by the Marshal.

The hearing was here interrupted by the entry of armed men and the Judge and Clerk were seized.

(Begin June 2). And now June 2nd, 1856. At 10 o'clock A.M. the U.S. Marshal returned into Court the Alias Writ of Attachment upon which was endorsed the following return: "Came to hand on the 15th Day of May, 1856. I attempted to serve the same, but was forcibly resisted by men in the office of the Governor, the Defendant, to the number of nine. List of persons who resisted most: S.J. BALDWIN, James DOTY, Joseph L. MITCHELL, R.M. WALKER, I.A. BROOKS, A.J. CAIN, Lewis ENSIGN, James TILTON and C.E. WEED. On the 2nd day of June, A.D. 1856, served the Attachment by bringing into Court, the Defendant, Isaac I. STEVENS." (Signed) Geo. W. CORLISS, W.T. Marshal. And Court adjourned until Tuesday morning at 10 o'clock A.M., June 3rd, 1856.

(Begin June 3). And now, June 3rd, 1856 at 10 o'clock A.M. Ordered that Writ of Attachment issue for (the above named defendants) who appear by the return of the Marshal to have forcibly resisted the service of the Alias Writ of Attachment, returnable on the first Monday of July, 1856, at 10 o'clock A.M. And Court adjourned until the first Monday in July, 1856, at 10 P.M.

(Begin July 7, p 117). And now, July 7th, 1856, the same being the first Monday, July 7th, 1856, Court met pursuant to adjournment.

United States of America vs. Andrew J. BALDWIN, James DOTY, A.J. CAIN, R.M. WALKER, Irving A. BROOKS, Lewis ENSIGN, James TILTON, Joseph L. MITCHELL and Charles E. WEED (re.) Attachment for Contempt (i.e.) Resistance of Process.

And now the U.S. Marshal bring in the Writ of Attachment in the above entitled Cause, and for return thereto, provides the bodies of the said (above named defendants), and the said Defendants, by their attorneys, move for leave to enter in their defence, and leave is granted.

(At this point all above named defendants are individually adjudged as the next entry indicates.)

United States of America vs. James TILTON. In re. Attachment for Contempt in resisting Process. And now Defendant submits himself to the Court to answer interrogations by way of purgation of said alleged contempt. And therefore comes B.F. KENDALL, Esquire, Acting W.T. District Attorney, and files

interrogatories herein, to which said defendant makes answers. And thereupon it is ordered by the Court that said defendant be discharged from custody, as purged of said alleged contempt.

(The rest of pp 117, 118 & part of 119 are devoted to identical Attachments against the other 8 defendants with identical results as for James TILTON above)

(P 119). United States of America vs. Isaac I STEVENS. Attachment for Contempt in refusing to make return to Writ of Habeus Corpus. And Defendant moves for leave to file an affidavit for change of venue herein, which motion is over-ruled. Court is adjourned until tomorrow at 9 o'clock.

(Begin July 8, p 120). Tuesday, July 8th, 1856. United States of America vs. Isaac I. Stevens. (re.) Attachment for Contempt in refusing to make return to Writ of Habeus Corpus.

And Defendant moves the Court that the Rule to show cause be discharged, and the Writ of Attachment quashed. Which motions the Court to overrule and to said over-ruling the Defendant accepts.

And thereupon Defendant submits himself to the Court to answer such interrogations as may be addressed to him by the Court, touching the said alleged contempt, and thereupon comes B.F. KENDALL, Esquire, Acting W.T. District Attorney, and files interrogations herein. To this number of 8, and day is given (date). And Court is adjourned until Wednesday, July 9th, 1856 at 9 1/2 o'clock.

(Begin July 9). U.S.A. vs Andrew J. BALDWIN (9th Defendant in Attachment for Contempt, i.e., Resting Arrest. Same verdict as others; see pp 117 - 119). (Begin p 121). And Court adjourned until Thursday morning, the 10th instant at 9 1/2 o'clock.

(Begin July 10). (Cause no. 151 in pencil). July 10th, 1856. United States of America vs. Isaac I. STEVENS: Attachment for Contempt for refusing to make return to Writ of Habeus Corpus.

And now to wit, on the 10th day of July, 1856, the argument of Council having been heard, and the said cause having been duly considered, it is ordered and adjudged by the Court that the said Isaac I. STEVENS be committed to the custody of the Marshal, until he shall have fully satisfied and discharged the sum of fifty Dollars fine, and costs of this Attachment of which he stands convicted, as for a contempt in refusing to make return to the Writ of Habeus Corpus heretofore issued against him at the instance of Charles WREN, Lyon A. SMITH, Henry SMITH, John M'LEOD and John M'FIELD.

And therefore said Defendant files in open Court a respite by Isaac I. STEVENS, Gov. of the Terr. of Wash. and moves the Court that all further proceedings in this case be suspended until the decision of the President on the United States can be known which Motion the Court do over rule.

And afterwards, it appearing that the fine and costs herein are paid and discharged, ordered that said Defendant be discharged and go hence without delay.

U.S.A. (by) Chas. WREN, et al. vs. Isaac STEVENS, in re. Petition for Writ of Habeus Corpus. Come now the Relators by their Attorney and say they will not further prosecute the above entitled Cause. It is therefore ordered by the (Begin p 122) Court that further proceedings on said Writ be discontinued and the the Defendant, Isaac I. STEVENS be discharged. (End of Session).

ED. NOTES: PARENTHESES () are mine. BRACKETS [] are in m/s. QUOTES " " are in m/s. NAME CAPS. are mine. DOTS ... are mine (to skip redundant or superfluous words). Longer spaces within ¶s denote minor ¶s of related subject matter. They are mine.