

First District Court, Minute Book, 1851-1896, Series 10035, Reel 1, 45-48, 52-53, UDARS.

First District Court Case Files, Series 25011, Reel 1, Box 10, Folder 12, 307, 325-330.

**4. The libel trial of New Mexican trader Don Pedro León Luján and company. Their property was confiscated in compensation for violation of the Trade and Intercourse Act of 1834.**

**a. Joshua Slayton, attorney for the Indians held in custody, argued that they should not be considered “confiscated property, January 12, 1852.”<sup>1</sup>**

United States            }       First Judicial District  
  
Vs.                        }       Court for the Territory of  
  
Pedro Leon & Others }       Utah in Libel

Joshua Slayton, the attorney of Indians seized and taken by Joseph L. Heywood, United States Marshall for said Territory, libeled and claimed by the United States as property belonging to said United States as confiscated by Pedro Leon and others comes and says that they aught not to be adjudged nor considered a confiscated property belonging to said States for reasons to wit: That they are not such merchandise, goods, and chattel as contemplated by the Act of Congress passed June the Thirtieth one Thousand Eight Hundred Thirty-four<sup>2</sup> and that they are not Slaves, as claimed in said libel by any Act or Law of Congress passed or made by the said Congress of the United States.

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<sup>1</sup> First District Court Case Files, Series 25011, Reel 1, Box 10, Folder 12, 307.

<sup>2</sup> Section four of the Trade and Intercourse act states: “That any person other than an Indian who shall attempt to reside in the Indian country as a trader, or to introduce goods, or to trade therein without such license, shall forfeit all merchandise offered for sale to the Indians, or found in his possession, and shall moreover forfeit and pay the sum of five hundred dollars.” See “An Act to regulate trade and intercourse with the Indian tribes,” 729-730.

Wherefore they say that the said United States ought not to have or maintain their aforesaid Libel against them, the said Indians. Wherefore they pray judgement of said Court.

**b. Brigham Young testified in Luján libel case, January 15, 1852.<sup>3</sup>**

Gov. B. Young, as witness on the Part of the U.S. in case of Libel, Testified as follows viz.:

When on my return from the South, the first day of November 1851, I arrived at the City of Manti, in San Pete County, I there found a company of Spanish traders. The Captain of the company, Pedro Leon, presented me with a license, purporting to be signed by J. S. Calhoun, the Superintendent of Indian affairs in New Mexico. I caused a copy of the said license to be taken which I here present to the court, and which is the same I caused to be taken from the original. (No objection urged by counsel to the same).

Pedro Leon requested a license from me to trade with the Indians. I refused to give him one and gave him the reason that they had come to this place with the express purpose to trade for Indian children to take to New Mexico.

I wrote the Governor of New Mexico a letter and gave it to Pedro Leon. He agreed to return immediately to Santa Fe and deliver the letter.

The company as far as I could learn, was employed by Mr. Pedro Leon, as Clerks, servants, traders, etc. There not being a good Spanish Interpreter present, it was difficult to find out the real design, or extent of their mission, but this I learned, they wished to trade for Indian children to take to New Mexico. I told them they were at liberty to trade with the whites, but

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<sup>3</sup> First District Court, Minute Book, 1851-1896, Series 10035, Reel 1, 45-47, UDARS.

must not trade with the Indians, for the reason that they could not without violating the intercourse Laws of the United States with the Indians. I judged there were about twenty men in the camp of the traders.

Question by the Court: Are the Indians in San Pete, Utahs?

Ans. They are.

Ques. Do you consider the Indians Property in this Territory?

Ans. No more than the whites.

Ques. Did the Spaniards, or any portion of them return immediately?

Ans. When I refused the license to Pedro Leon, he agreed to return to New Mexico.

Question: Did they return, or any portion of them?

Ans. I do not know that any of the company did return but understood a portion of them returned in eight or ten days, after I saw them in San Pete.

Ques. Do you know of Indian Children having been bought by white people in this Territory?

Ans. I do.

Ques. For what purpose?

Ans. All the Indians that have been bought by the citizens have been bought to obtain their liberty and to save them from starvation, abuse, and even death.

Ques. Do you, since you resided in the Territory, know of the Indians trading with Indians, or with the Spaniards for their children?

Ans. I have known of the Indians trading for Indian children. It is a common practice with them, and according to the best information I can get from the traders among them, they are in the habit of stealing children and selling them. There is an Indian in this Territory by the name of Baptiste, he has followed the business ever since I have resided in this Territory, of trading for Indian children. When he cannot trade for them, he steals them, and takes them to New Mexico and sells them to the Navaho's or Spaniards. This is according to his own and other's statements.

In the fall of 1847, after we came in here, he (Baptiste) brought to our Fort a young Indian boy and squaw, that he had stolen in Beaver Valley, from a tribe called the Pi Band;<sup>4</sup> the boy was about 16 years old and the girl about 18, as near as I could judge. He offered them for sale. The people refused to buy them. Baptiste then told the whites, if they would not buy them, he should kill them. The whites not believing his statement still refused to purchase them. Baptiste then took out his two prisoners to his camp and killed the boy. He then returned to the Fort with the girl and offered her for sale. A young man by the name of Charles Decker (a son-in-law of mine) gave Baptiste a gun for the girl. She has lived in my family ever since, has fared as my children and is as free.

It is customary with the bands of Indians in this territory to steal from other bands their children and squaws and if accidents or misfortune comes upon the Bands holding the slaves, as death of one of their tribe in their Bands, or other striking circumstances, for them to take a prisoner, and kill him, to appease the wrath of the enemy. Indian Walker has been in the habit for years of trafficking in Indians. He has never been here with his Band, without having a quantity of Indian children as slaves. He offers them for sale, and when he has an offer that satisfies him

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<sup>4</sup> This is likely referring to a band of Southern Paiute Indians who were centered around Cedar City in Iron County typically referred to as the Piede band.

in price he sells them, and when he cannot get what he thinks they are worth, he says he will take them to the Navaho Indians, or Spaniards, and sale them, or kill them, which I understand he frequently does.

I have seen Walker's slaves so emaciated they were not able to stand upon their feet. He is in the habit of tying them out from their camps at night, naked and destitute of food unless it is so cold, he apprehends they will freeze to death. In that case he will give them something to sleep on, lest he should lose them. This is the general character of the Utah Indians. There are many other circumstances of a like character which I could relate but if the court pleases I will forbear.

**c. Isaac Morley testified in Luján libel case, January 15, 1852.<sup>5</sup>**

Isaac Morley testified as follows, viz:

Don Pedro Leon & others in the Valley of San Pete, saw them there, at the time the Governor was there, heard the Governor tell them they must not trade or Traffick in Indian Children, and he forbid it. Understood they came from Santa Fe; understood they came for the purpose of trading Horses for Indian Children.

The Spaniards had near one hundred horses & mules to trade with the Indians. I counted them myself; saw no other property they had to trade. Do not know from my personal knowledge that they traded for any children. Theses Spaniards speak the Spanish language, & that I do not understand. There was a Court of Inquiry held at the city of Manti in San Pete Valley, and I was present at that court. The Spaniards, I have seen about here, are the same ones I saw in San Pete.

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<sup>5</sup> First District Court, Minute Book, 1851-1896, Series 10035, Reel 1, 47-48, UDARS.

They are the same ones that were brought up here by a writ from this Court, in the custody of the Marshall. They had Indian Children with them. Pedro Leon & those arrested with him, had no Indian children with them when they came to San Pete to my knowledge. I know the fact that they were arrested by Mr. Peacock,<sup>6</sup> and brought into the Court of Inquiry, but do not know where Mr. Peacock arrested them.

Cross examined: Manti is the county seat of San Pete County. It was Justice of the Peace that comprised the court of Inquiry & heard Mr. Peacock say they had Indian Children with them at the time he arrested them.

The whites at San Pete trade with the Indians, having been counselled so to do by the Governor before the territorial organization to purchase Indian children to save them from misery, starvation, cruelty, and death. Don't know how many Indian children the whites have purchased of the Indians. All that have been purchased, have been purchased to make them free. Do not know from my own knowledge that the Spaniards had traded for any children, or had any in their possession, only there were Indian Children with them when the officer brought them into the Court of Inquiry.

I certify the forgoing to be correct.

**d. Phillipe Santiago Archuleta testified in Luján libel case, January 16, 1852.<sup>7</sup>**

Phillipe Santiago Archuleta

Testimony in case of Libel

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<sup>6</sup> George Peacock (1822-1878).

<sup>7</sup> First District Court Case Files, Series 25011, Reel 1, Box 10, Folder 12, 325-328, UDARS.

Live in Taos, in New Mexico. Came here with his uncle Miguel Archuleta; came into this valley in October last. Don't know what his uncle came for; his uncle knows what he came here for, and came because his uncle wanted him to come. He and his uncle did not come alone, but others came with them. There were twenty-eight in all in the company; twenty one having charge of property on their own account, the residue were hired servants. Heard of Pedro Leon before he left New Mexco, and became acquainted with him when they left for this valley. Knows the following named persons who have presented their claims: Pedro Leon, Jose Manuel, Jose Mejio, Bicente Chaves, Manuel Archuleta, Juan Antonio Baldineros, Jose Albino Mestes, Miguel Archuleta. These persons are in and about Salt Lake City except Manuel Archuleta—all these were in the company of twenty-eight before mentioned.

Ques. of the Court: had any of that company of twenty-eight any goods when they left Taos?

Ans. What I brought myself I know about but others I do not—we came on horses & mules. Does not know how many horses & mules they had; had a good many but [does not] know the number. Every man had an animal to ride, and others to pack. Had flour & provisions on the other horses and some other things—packed goods for his uncle. Packs had bread and flour, coats & blankets, and shirts. Traded these goods with the Utahs for horses & buckskins; sold the buckskins in this place. Some of the horses were also sold here. Some were stolen and others sent back to Santa Fe. Done their trading on the other side of the Rio Grande. He and his uncle traded their goods there and saw others there trading. Saw some [of] these 8 men that have put in their claims here at a distance trading at the River Quartz, two days travel beyond the Rio

Grande. When the company left that River they started to come here to this city to trade. Had a license to trade with the Ute Indians and did not know any thing about a line.<sup>8</sup>

The officer that gave them the license in New Mexico gave them permission to trade with the Utah Indians; he did not know there was any line in the territories to restrict him from going any where. Do not know of any license except one in the company and that was given to the captain of the company, Pedro Leon. Came here to sale their animals for money, they also wanted [illegible]. Brought a license here to exhibit to the governor and if that was good, to trade with the whites and Indians also, and if the license was not good, to endeavor to get one from the governor, and when the governor refused them a license, they refused to trade with the Indians. Some of the horses they brought here was sold. Others were stolen and some were sent back to Santa Fe. Six horses were stolen first at San Pete Valley. Utahs were the ones they supposed stole them; never got these horses. Indian agent at San Pete told George Bean to go and get the [stolen horses]<sup>9</sup> from the Indians and return them to the Spaniards, but they never recovered them. When the company was on the Spanish Fork, they had four horses and two mules stolen likewise. Some of the company went to look for the last horses & mules stolen. Did not see any [of] the horses but saw the skins of two [of] the horses; had been eaten up. Got no pay for them except one squaw. Did not see the trade himself, but said the company had taken the squaw for the two horses that had been eaten up.

The two horses that were eaten belonged to Bisente Chaves; he received the squaw and he is one of the party here . Witness was at Salt Creek, crowd was ahead of him. Witness was with Pedro Leon & company when they were arrested; was this side of (south) Salt Creek in San

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<sup>8</sup> This refers to the border between New Mexico Territory and Utah Territory.

<sup>9</sup> These two words are switched in the original, "horses stolen" which does not match the intent of the sentence.



Pete Valley about half day's travel from Manti City. Jose A. Baldineros and Bisente Chaves was going on ahead with mules. Jose Manuel Senyo and Miguel Archuleta were in the camp— witness [and] the other three were together; don't know how far from the camp [it] might be, perhaps 6 or nine miles. Has Indian children with them that Arapeen the Indian had brought and thrown down and took the Spaniards horses in their place. His uncle was in camp. Witness was with his uncle. Repeats [that] Arapeen caught four horses belonging to his uncle and threw down two Indian children and said if he had a mind to trade, he would trade, and if he had not, he would trade any how. Another Indian caught one of Albino Mestes' horses and threw down an Indian child and rode off with the horse which makes three Indian children.

Witness knows of seven Indians being with the camp, six children & one squaw. Went from Salt Creek, Sevier River. Witness saw hides of horses that had belonged to his uncle & knew then that his uncle received an Indian girl of the Indians for the horses eaten. Then followed in the track of their animals to Sevier Lake & then they found Indians & charged them with stealing their horses. Indians denied having the horses. Spaniards told them they had followed their tracks right there and they knew they had them. They demanded pay for them. After a while the Indians acknowledged they had the horses. The Indians gave them an Indian boy & Indian girl for the horses stolen. Said that Leon told the Indians that he did not want their children, but wanted their horses to go home with—[there was] no other way to get pay for their horses, therefore they took them [the children].

Ques. by District Attorney<sup>10</sup>: Is Indian children bought and sold in New Mexico?

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<sup>10</sup> Seth M. Blair.

Ans: There is certain men in New Mexico that have Indians to work for them, and they are at liberty to go and work for who they please. But knows nothing of there being slaves.

By the Court: have any of this company present, been in the habit of coming to this country and traded for Indian children?—Objected by Defense counsel.<sup>11</sup> Overruled by the Court.

Answer: Do not know of any one himself, but he has been told the Spaniards of New Mexico had come here and traded for Indian children. Witness himself came a few years ago with a company and traded for Indian children.

Ques. by D.A.<sup>12</sup>: Did not these claimants come here to trade with the Indians for Indian children? Objected to by Df C.<sup>13</sup> Overruled by the court.

Ans.: It is not possible for him to know all their intentions to what they intended to trade, but he supposed they came to trade for any thing they could trade for. Says he heard some of the company say that they [had] licensing here to trade for Indian children or anything else they could trade for. Had property at the time of their arrest at South Salt creek; lost mules & horses. Had seven horses & ten mules. Six of the horses & four mules are the same that the Marshall has under arrest at present.

Cross examined by Def. Counsel<sup>14</sup>:

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<sup>11</sup> George A. Smith.

<sup>12</sup> Seth M. Blair.

<sup>13</sup> George A. Smith.

<sup>14</sup> George A. Smith.

Had a horse taken at Sanpete belonging to Antonio Baldineros by the Alcalde<sup>15</sup> (as supposed) and given to Arapeen for an Indian boy. If not been arrested intended to have returned to Santa Fe this fall. Don't know how far from San Pete to Santa Fe, but took them two months to come from Santa Fe to San Pete. He could go alone with their own mules if he wanted to go quick, two would do if he wanted to go slowly and take his time. Had no horses & besides those the Marshall arrested except those stolen. At the time the other company started back, had twenty horses & mules. Company that started back took all the goods and animals, only left them enough to hunt their animals, and provisions to last them until they overtook the camp—and further saith not.

**e. Francis M. Pomeroy testified in Luján libel case, January 16, 1852.<sup>16</sup>**

F. M. Pomeroy. Sworn and testified: Saw the Spaniards present, all except one, about 12 or 13<sup>th</sup> of December last. Staid at his house in this city. They are all claimants here in this suit except one. Spaniards told him they came here on purpose to trade with the whites and get him (witness) to go and interpret for them to trade their animals and skins. Bought two animals of them, also some skins. When they left here they told me they intended to go direct to Santa Fe. Pedro told witness that he had a license to come here to trade in company with these others; he had left the party three days previous to their arriving in San Pete Valley & came on in advance to find the governor and exhibit to him his license. Came on as far as the Provo where a man told him the governor was down at Iron County. He then wheeled around and proceeded back as far as the Sevier River where an Indian told him the governor had gone up to San Pete. Pedro arrived at San Pete the Sunday morning. Said he presented the license to the governor. The

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<sup>15</sup> An alcalde was a Spanish municipal magistrate who typically held both judicial and administrative authority. In this case Archuletta is likely referring to George Peacock who was serving as constable at Manti at the time.

<sup>16</sup> First District Court Case Files, Series 25011, Reel 1, Box 10, Folder 12, 329-330, UDARS.

governor told him that license was not good to trade here. He then asked the governor to give him another, which the governor refused and that the governor [requested<sup>17</sup>] [him] to go home but gave him liberty to trade with the whites. That he came down here [Salt Lake Valley] and traded in order to obtain his supplies to return home. When he started from here to go home, arriving at Spanish Fork where he left a portion of the company when he came down here, he then heard that three nights previous the Indians had taken six of their animals, 4 horses & 2 mules. He then directed the company to pack up and start for Santa Fe except those present here. They were to tarry and hunt up the animals stolen. He, Pedro, would also stay, help hunt the animals, & then go on and overtake the camp within six days at most. The company that started for Santa Fe took the Spanish Fork Road. The remainder that tarried to find their horses took a wandering route and came into San Pete Valley at the South edge.

**f. Associate Justice Zerubbabel Snow issued his decision in Luján libel case, January 24, 1852.**<sup>18</sup>

Court met pursuant to adjournment.

And by order of the Court the following decree in relation to the U. States vs Pedro Leon et al in case of Libel, was entered Viz.: . . .

The Court having . . . heard the arguments of counsel is of the opinion that said claimants, except the said Indians and Joshua Slayton with some twenty other persons to the Court unknown, did in the Month of September of last year, introduce as Indian Traders the Horses and Mules mentioned in the information with some eighty or a hundred other horses and

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<sup>17</sup> Word is illegible but “requested” or “instructed” are two possibilities.

<sup>18</sup> First District Court, Minute Book, 1851-1896, Series 10035, Reel 1, 52-53, UDARS.

mules into the usual hunting grounds of the Indian tribes in the Territory of New Mexico, and did also bring said horses and mules into the usual hunting grounds of the Indian Tribes of the Territory of Utah into which they were introduced in or about the month of October of last year, the primary object of which was to trade with the Indians for their Children to be taken to New Mexico. That neither of said claimants had a license to trade with the Indians except the claimant Pedro Leon. That Pedro Leon had a license to trade with the Indians in New Mexico, but did not have a license to trade with them in Utah.

That said claimants remained in this Territory from October last until in the early part of December last, during this time they obtained seven of the Indians mentioned in the information, some of which were obtained for horses which had been stolen before then by the Indians, and others for the exchange of horses for them. That all the horses and Indians except [the] ones mentioned in the information were found in their possession when they were in the usual hunting grounds of the Indian Tribes of the Territory. The Court is therefor of the opinion that the laws of the United States regulating trade and intercourse with the Indian Tribes have been violated, by all of the aforesaid claimants, except the said Indians, and Joshua Slayton and being of that opinion in it hereby condemns the said horses and mules now in the custody of the Marshall and mentioned in the information to the use of the United States and orders the said Marshall to sell the same at Great Salt Lake City according to the statutes in such cases made and provided, and distribute the proceeds of such sale according to law, and as to the said several claims to said horses and mules of the said claimants, they and each of them are disallowed.

And so much of said information as seeks to have the Indians therein mentioned condemned, the same is hereby disallowed and the claim of the said Indians made in their behalf

by the said Joshua Slayton, be and the same is hereby allowed, and the said Indians adjudged to be free.

It is further ordered that Joseph G. Heywood the Marshall of this Territory retain said Indians in his custody until Monday next when he is directed to discharge them.