

George D. Watt, *Utah Territorial Legislature, Debate on Indian Slavery*, possibly beginning January 23, 1852, CR 100 912, Church History Department Pitman Shorthand transcriptions, 2013-2021, Addresses and sermons, 1851-1874, Miscellaneous transcriptions, 1869, 1872, 1889, 1848, 1851-1854, 1859-1863, Utah Territorial Legislature, 1852 January-February, CHL.

*Journals of the House of Representatives, Council, and Joint Sessions of the First Annual and special Sessions of the Legislative Assembly of the Territory of Utah. Held at Great Salt Lake City, 1851 and 1852 (Great Salt Lake City: Brigham H. Young, printer, 1852), 85, 89, 143, 146*

*A Preamble and An Act for the Relief of Indian Slaves and Prisoners in Acts, Resolutions, and Memorials, Passed by the First Annual, and Special Sessions of the Legislative Assembly of the Territory of Utah, Begun and Held at Great Salt Lake City, on the 22nd Day of September, A. D. 1851 (Salt Lake City: Brigham H. Young, Printer, 1852), 91-94*

Hosea Stout, *On the Mormon Frontier: The Diary of Hosea Stout, 1844-1861*, edited by Juanita Brooks, 2 vols. (Salt Lake City: University of Utah Press and Utah State Historical Society, 1964), 2:428.

## 1. Debate over an Act for Relief of Indian Slaves and Prisoners, Transcript of Watt

### Shorthand<sup>1</sup>

### Document

Judge Snow<sup>2</sup>

I have no particular feelings relating to particular acts ~~from~~

Pratt<sup>3</sup>

The question under consideration is an act relating to the liberty of that people. I think if we should pass such a law [in] the United States [we would be] dealing with things we have no business [dealing] with. We can pass all wholesome laws for the welfare of this society and all

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<sup>1</sup> Utah Territorial Legislature, *Debate on Indian Slavery*, possibly beginning January 23, 1852, CR 100 912, Church History Department Pitman Shorthand transcriptions, 2013-2021, Addresses and sermons, 1851-1874, Miscellaneous transcriptions, 1869, 1872, 1889, 1848, 1851-1854, 1859-1863, Utah Territorial Legislature, 1852 January-February, CHL.

<sup>2</sup> Federal Judge Zerubbabel Snow (1809-1888) was not a member of the legislature but was likely asked to comment on the proposed bill because of his ruling in the Luján case. For whatever reason, Watt did not record Snow's words beyond the first half sentence. If the debate here began on January 23, then Snow would have talked to the legislature one day before ruling in the Luján libel case that the captive Indians were "adjudged to be free." If he spoke on January 26, it would have been two days following his ruling.

<sup>3</sup> Orson Pratt.

people that live therein but when we touch the principle of enslaving the aborigines of this country, binding them by certain laws to be bought and sold, [it] is preposterous and [I] wonder [why] any gentleman present [would bring] such a bill before this country. The United States with all the power they are in possession of have [not] ventured to enslave the aborigines of this country; they only enslave a hair color. Shall we enslave people and make laws to enslave a race which the government of [the] United States ~~have~~ would [not] assume [to do]?

Pratt<sup>4</sup>

If the gentleman had not got off the subject I ~~may~~ might make a reply. The object of the bill is to abolish slavery; this is the object ~~set~~ which was set forth. I wish to say a few words [in] relation to [the] powers of this territory. The people of the state of Missouri or Illinois have no better right to legislate for orphan children, for vagrants, or for the protection of or regulation of runaway Negroes or Negroes found in the territory in [a] state of slavery; [those states do] not [have] a better right than the territory of Utah have,<sup>5</sup> as long as we know that these Indians here are objects of traffic. [I have] seen droves of them lariat<sup>6</sup> out. [It was] proven here before the court the other day that there are Indians here that follow the business of stealing children, offering them for sale, and if not sell them kill them; these things [or] facts are fairly before the

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<sup>4</sup> Watt clearly recorded "Pratt" in his shorthand notes, an indication that Orson Pratt spoke again. However, the views expressed in this speech run counter to the views Pratt expressed immediately before this speech as well as his arguments that follow. We believe that the speaker here is most likely George A. Smith. The sentiments expressed most closely match Smith's views and draw on information he would have known as a participant in the Luján trial. While Watt did not record every speech and it is possible that a different legislator spoke in between Pratt's two speeches, the content of this speech suggests otherwise. It is a direct response to the speech Pratt just gave. Pratt argued that the bill would "enslave the aborigines of this country" while the speaker here disagrees and argues that "the object of the bill is to abolish slavery." We thus conclude that the speaker here was not Pratt and was most likely Smith.

<sup>5</sup> In the debate that follows, Watt regularly recorded "have" rather than "has" in instances with a singular subject. It was likely a pattern of speech. Rather than insert a "[sic]" for each instance, we note the pattern here and leave it as Watt recorded it throughout the remainder of the debate.

<sup>6</sup> This description is consistent with Young's testimony at the Luján trial. Smith (presumably) here turned the word "lariat" into a verb and used it to mean that the Indian captives were tied via a rope and staked "out" or anchored to the ground to prevent escape.

United States court; these facts are actually known.<sup>7</sup> Mr. Calhoun reported that the Indians of this territory did devour each other<sup>8</sup> and [some] have suggested Congress do some [sic] something in this matter, [which] they will not do. And if we will not take it in hand, if we who profess [to] extend liberty [to the] ancient Israelites and bring them back to their former freedom, if we will not extend the hand of friendship, the race must come to an end. Degradation and ruin must [ceaselessly reign<sup>9</sup>] until the last blood of Lehi [is] extinct from the earth. I am not afraid of [the] United States confiscating my property because I take an Indian child, clothe it, and put it in a way to obtain an honest living. Many of ~~courts of United States~~ [us are] not any afraid that an indenture in some manner restricts that my own children be indentured by<sup>10</sup> the United States. The case is a clear one and calls for humanity to save bleeding Israel. Unless we take some measures to extend the means in our power to save this fallen race, [we] would expect their blood upon our heads and [the] vengeance of [the] Almighty. ~~slaves~~ If [we are] afraid of Uncle Sam though he has declared that [freedom is effectually ours] . . .<sup>11</sup> Is the provisions of [this] bill [complete]? The bill [was] got hastily up. Not altering and amending [the bill when] this council possess wisdom to do it [is not correct]. In my opinion, if you can place an Indian child in [a] position by his serving 20 [years], [to] receive school, learn some trade, instead of being shot for

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<sup>7</sup> This is a clear reference to the Luján trial.

<sup>8</sup> James S. Calhoun (1802-1852) was serving as New Mexico's first territorial governor and Superintendent of Indian Affairs during the period of the Luján trial and the legislative session. He issued the trade license which Luján carried with him which authorized Luján to trade in New Mexico Territory. In 1850 Calhoun reported to his superior in Washington, D.C. that when Great Basin Indians could not find other food, they ate their own children. See James S. Calhoun, Santa Fe, New Mexico to Orlando Brown, Commissioner of Indian Affairs, Washington, D. C., 29 March 1850, in United States, Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs Transmitted with the Message of the President at the opening of the Second Session of the Thirty-Second Congress, 1850* (Washington: Printed for the Office of the Commissioner of Indian Affairs, 1850), 99. On Calhoun see Brooks, *Captives & Cousins*, 309; and Annie Heloise Abel, *Official Correspondence of James S. Calhoun while Indian Agent at Santa Fe and Superintendent of Indian Affairs in New Mexico* (Washington, D.C.: Government Printing Office, 1915).

<sup>9</sup> These words represent our best effort to decipher two words in Watt's shorthand.

<sup>10</sup> Watt wrote the word "by" twice here.

<sup>11</sup> Watt failed to capture a complete sentence here with no clear understanding as to its completion.

sport, [then we should do so]. If we do not lay the plan to come completely out [to redeem] these Indian children, [then] the trade will be [had] by crossing the line. This trade is going on all the time in Indian country; just cross the line and the trade continues.<sup>12</sup>

Spencer<sup>13</sup>

I had the audacity to second the bill. My audacity has some effect to wrest able speeches from the honorable council. I flatter myself that I had the courage to second this motion. I hope [that with] the result in this case I shall be all [safe]. As to the bill, I am not able to see the legal bearing of the motion that I took the liberty to second from the remarks of the honorable councilor [who] spoke last. It is true that [things are] not as portrayed and [some people have] philanthropic and effective system[s] of [operation]. By the bill introduced to this council I demur the spirit of the bill and the object he wishes to compose by its passage. It is a matter of question whether it is our right [or] prerogative to pass such a law and if it is not, we go about a false errand [to] do that which must be undone. This is what I wanted the gentleman to show, perhaps I seconded the bill to show [a] sound argument. I am not in any [illegible] but the idea I have entertained on this act [is] like this: [The United States government], probably through their executive and Indian agencies, do provide laws for the Indians of [a] peculiar character. They are nations by themselves, dependent in some measure upon the nation of [the] United States; they do not allow any other nation to arbitrate. They appoint agents at their every border to see that this people are protected in their rights and no one intrude upon them. They appoint missionaries and teachers. Can they do it without a license? Could we ~~de~~ send missionaries, to send preachers among them without permission of [the respective] Indian nation, [or] teach them [to]

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<sup>12</sup> “The line” here seems to indicate the territorial boundary line between Utah and New Mexico. The Luján trial offered evidence to legislators that an active trade in Indian captives was taking place across the “line” in New Mexico.

<sup>13</sup> Orson Spencer.

manufacture? I rather apprehend not. But if we present this joint bill in [the] form of [a] memorial then they will say send out your missionaries, teach [the] gospel, [teach them to] manufacture. Take ~~them~~ their children and we will give you your wages. We will sustain the men and give them salaries that will go and gather up these outcasts from all nations that are ready to be butchered. We will pay men for this service for us to take the matter into our hand[s]. It may be right; I would like the gentleman to show that [there is] not much danger if we pass this [bill]. The governor is [an] Indian [reformer<sup>14</sup>] and it is wrong [to] not sign it if we present it as [a] memorial. That is my views and the reason I second such on onerous movement.

Dana<sup>15</sup>

I would observe that I had a conversation with a chief agent of Indian affairs in Washington. He read the law and he said in regard to the law regulating the traffic with Indians, it was the most strict of any other law of the land and spoke of the camp at Winter Quarters with respect to building [domiciles] etc.; said they were permitted to go on that land to keep them from being butchered by their enemies. But as they were dwelling on the land, killing their game and there was repeatedly letters [from] Indian [agents telling us that we] would have to be removed.<sup>16</sup> [He] read a good deal of [the] law which was very [definitive] and extensive in all its bearings. However, I wish to have<sup>17</sup> the thing take its right direction in this matter. I would like to have the Indians protected. [I would] not like to interfere with matters not belonging to us; for this reason we have got the air a little smoothed down now and if we can keep our [position] until we get a better hold [it will be to our benefit]. I would not like to make [so] firm a grasp

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<sup>14</sup> This word in Pitman is difficult to read. "Reformer" is our best assessment of what Watt recorded.

<sup>15</sup> Charles R. Dana.

<sup>16</sup> For context on the Mormon relationship with Indians at Winter Quarters see Richard E. Bennett, *Mormons at the Missouri: Winter Quarters, 1846-1852* (Norman: University of Oklahoma Press, 1987), chapter 5; and Richard E. Bennett, "Cousin Laman in the Wilderness: The Beginnings of Brigham Young's Indian Policy," *Nebraska History* 67 (Spring 1986): 68-82.

<sup>17</sup> Watt wrote the words "to have" twice here.

until we get more power. I believe in legislating in wisdom; it is wisdom I want. If we are going to pass laws which are the laws of God [I will] hold up both my hands. I go in, if that gentleman go in for it to day.

Farr<sup>18</sup>

I have been quite interested with the remarks brought out on both sides of [this] debate. The design of that bill appears to me to be very good or the designs of [the] chairman that presented the bill are good, but as it has been remarked the laws of [the] United States is very strict pertaining to Indian territory or pertaining to the traffic with them in property. I know more about the law pertaining to property than persons. I do not know but the law is strict pertaining to buying and selling persons. I do not know anything in the constitution that prevents or encourages the selling and buying of Indians. I have not seen any law on this matter. I believe there might be able to be a law made and not be according to the laws of [the] United States [to] prevent any Indian or white man from selling an Indian in this territory. [We should enact] severe punishment; in that way we can prevent their<sup>19</sup> selling Indians, that if they brought an Indian here in our territory to sell, that they lose their heads or perhaps get a severe flogging. Quit that traffic and throw out [the] law that we will buy all the Indians, the females and the children; men, I suppose, are not to be bought.<sup>20</sup> ~~I do not they are not for sale I suppose~~ If there is ever a law made to prevent their fetching them here, white, black, or any other color, let there be a law that they be scourged. Called to order by the chair. I speak of the impropriety or [propriety] of preventing the trade of Indians and their offering of them for sale, that in the section—I suppose the section is not adopted. Chair: the [postponement] of the bill is the question.

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<sup>18</sup> Lorin Farr.

<sup>19</sup> Farr may be referring here to Mexican traders such as Luján.

<sup>20</sup> Farr here points to the fact that it was primarily women and children who Ute traders offered for sale to Spanish and Mormon settlers.

Smith<sup>21</sup>

[I] crave the indulgence of [the] council for the purpose of throwing a little more light on [the] subject of this question. I have never seen an Indian man offered for sale nor gambled for. When they take them prisoners, [they] kill the men; the women and children [they] sell and [if they] cannot do this, [they] kill them.<sup>22</sup> More than that it has been proposed that a law shall be made to prohibit the Indians from selling them.<sup>23</sup> The result would only be [that] the Indians would cross the territorial [boundaries]. Mr. Dana extends the idea that the Indians laws [are] very strict. [We] could not get timber in Indians' countries. I [demand] the facts. Can we do it here? Is this territory Indian country? Or perhaps our labor[ing] [folks] owe Uncle Sam \$3,000; if one person [is] found herding cattle here, [he] forfeit[s] 1 dollar per day. Every man that is found in Indian country with Indian[s] to build [a house, is] liable to have his house torn up. This [There] is a territory of Oregon full of settlers; [we are] all in the same chapter if Congress [forces] this law upon us. The very moment [when the] territory of Utah [was] organized by law, this ceased to be Indian country, providing it ever was Indian country. [Admitting that] it was an Indian country at that time, it was not [at] the moment it was organized [as a] territory. You might as well [argue that] the state of Illinois has not the privilege of legislating in relation to vagrants as [to] say we [do not have] the liberty to legislate. There is not a merchant who have come here [and traded with Indians who would not be in violation of the law]. The law is if any man introduces goods into this country, [where] ever [he] goes in this town, [officers could be] confiscating [his goods]. If it is not Indian country, [then] who is going to make rules?

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<sup>21</sup> George A. Smith.

<sup>22</sup> Smith confirms Farr's sense that only women and children were bought and sold.

<sup>23</sup> Here Smith is responding to Lorin Farr's proposal that the law should target those who traffic in Indian captives.

It is suggested that we should pass laws [which stipulate] that the Indians should not sell one another. We ought to be friends of [the] children of Israel. [We ought to] make laws to protect it [them]. [Should we] send men over to Mexico [to arrest] those men who ravish [girls] not seven years of age [so] that they cannot go throw those [girls] into their hands.<sup>24</sup> [We should not hesitate to act simply] because we are afraid of doing something that somebody will not be pleased with. And if God has placed us here to legislate for the relief of [the] Indian and we would not [be] doing [it], their blood be upon our heads. Speaking with [of] passing the law, before it got there [to Washington, D.C.] and back, we will pass another [law] so as to have one in force all the time, every three months. The honored gentleman from Weber<sup>25</sup> suggests [that we] stop the selling of them [Indians]. I have seen half a dozen of [them] gambled for, sold for a bed quilt. [If the Indians] could not have sold [the captive] the result would have [been] its brains knocked out and nothing said about it. Numbers of them have been killed within the knowledge of individual[s] in that way, the chief of [prvin<sup>26</sup>] Indians has gambled away every one except [a] child at [the] breast. They have a kind of game [wherein they] row [and] stick a child against half dozen bullets, etc. [It is] as much [a] trick as [the] operation of gambling.

Now to suffer this order of things to go on another month or year, to give no sanction or color of law to stop it [is unconscionable]. Then as a matter of course those [government] agents, having the power and control of this matter, and under that control, having no regard or feeling to Israel, and [they] grant license to ravish and use up the race. This legislature [might] be memorialized upon the subject. I have memorialized the states on subjects of throwing [ntr<sup>27</sup>]. If

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<sup>24</sup> Phrase could also be read: *throw themselves into [other/their?] hands.*

<sup>25</sup> Lorin Farr.

<sup>26</sup> The shorthand here reads p, r, v, long i, n. The terminal “en” could be read “tion”. Provo, Piede (a Southern Paiute band), and Pahvant, are all possibilities but do not fit the letters Watt recorded.

<sup>27</sup> This is an undecipherable word written by Watt as n, t, r.

we was to memorialize them [Congress] [for] three years, what [would] be the result of it? “God bless you, we can do nothing for you.” Give us money for teaching the Indians to plow and if the heads of the law send some low bred<sup>28</sup> dog to superintend it [then so be it]. Mr. Judge [McElroy<sup>29</sup>] was sent up there to boss the farm. Did they ever have any bread from it? Very little. Does the government of the United States mean to do something for the Indians and territory of Utah? If they proposed to do, have they ever made an appropriation, or sent a [balm<sup>30</sup>] to the Indian country in a bill? When it was provided that the governor of Utah be superintendent of Indian affairs [they] [appropriated] nothing at all for ~~them~~ here. Why are they not out here on Bear River? Uncle Sam has never [sent] them [anything]; in [the] United States he has no use of them. He only sent them here to get them out of the way. The question has been before them, [what is the] proper [course]? I am that partial to the Indian race [that] I wish to have so [many of them] if possible fall into the hands of good men [who] will cultivate them, [give them an] education, and make them fit to enjoy that liberty so much bestowed here. Here is the labor spoken of by my friend. [It is better] than to go into the hands of those savages [and] keep a guard.

[The gentleman] from Weber<sup>31</sup> [said that we should] pass a law that Indians not be sold in the territory. All that is necessary [is for them to] pass the [boundary] line. The name of J. S. Calhoun<sup>32</sup> signed [a license to trade in an area where] we belong. It prove[d] [that this] very

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<sup>28</sup> “Bred” written over “blood.”

<sup>29</sup> The name recorded here is not clear and “McElroy” is only a guess based on the letters Watt recorded: (mrklrow/mlklrow). We have not been able to identify a judge who supervised a Native American farm in Utah Territory who fits Smith’s description.

<sup>30</sup> Watt recorded here the letters b, l, n. Watt did not typically interchange m and n so that “balm” is only an imperfect suggestion here.

<sup>31</sup> Lorin Farr.

<sup>32</sup> James S. Calhoun, governor and superintendent of Indian Affairs for New Mexico Territory. This was another clear reference to the Luján trial and specifically a reference to the license Luján brought with him to Utah Territory, a license signed by Calhoun authorizing Luján to trade with the Ute Nation, “in their own localities,” but only valid in New Mexico Territory.

business license was [signed]. Mr. Calhoun has signed licenses for a man to trade for Indian children. Page 99 of the annual report of the commissioner of Indian Affairs [indicates Calhoun's attitude toward Indians in Utah]. [A binding] license was produced by Calhoun, carrying out the ~~that~~ hypothesis that they must be elevated or exterminated (the commission notes was read).<sup>33</sup> A copy of [an] original license was found in [the] hands of [a] man endeavoring to trade for Indian children. That [proves] that the authorities of New Mexico encourage the buying and selling of Indian children.<sup>34</sup> ~~Judge Snow.~~

#### Pratt

I have not risen with [the] intention of being lengthy upon the subject but as not any of the speakers brought forth on Thursday<sup>35</sup> we have not produced much law for want of being versed in laws of [the] United States. At [the] same time we have some understanding, [a] little light, obscure though it may be, upon the subject before us. Much has been said by the past<sup>36</sup> gentleman in relation to relief of Indians and that [it] is our duty to look after the remnants and outcasts of Israel upon the face of this land. I presume [every] one of [the] members' present bosoms burn with beneficence and philanthropy. That feeling arises and if each [member is] as anxious as [the prior] gentleman, [then he] does [everything possible] that they<sup>37</sup> might be

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<sup>33</sup> Page 99 of the 1850 Annual Report of the Commissioner of Indian Affairs, is a letter from Calhoun to the Commissioner in Washington, D.C. in which Calhoun described the "Pah Utahs, who inhabit the country east of the Sierra Nevada." He called them "benumbed by cold, and enfeebled, intellectually and physically, by the food upon which they subsist; it consisting only of roots, vermin, insects of all kinds, and everything that creeps, crawls, swims, flies, or bounds." He then claimed that "when these resources fail them, and they can find no stranger, they feed upon their own children. Such a people should not be permitted to live within the limits of the United States, and must be elevated in the scale of human existence, or exterminated." See J. S. Calhoun, Santa Fe, New Mexico to Orlando Brown, Commissioner of Indian Affairs, Washington, D. C., 29 March 1850, in United States, Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs Transmitted with the Message of the President at the opening of the Second Session of the Thirty-Second Congress, 1850* (Washington: Printed for the Office of the Commissioner of Indian Affairs, 1850), 99.

<sup>34</sup> Smith is clearly drawing upon evidence from the Luján trial here.

<sup>35</sup> January 1852 had five Thursdays: 1, 8, 15, 22, 29. Orson Pratt is apparently referring to Thursday, 22 January. The document is undated until page 7, two pages later, which is dated January 27, 1852 (a Tuesday.)

<sup>36</sup> Watt wrote an extra "the" here, as in "by the past the gentleman."

<sup>37</sup> The Indians.

redeemed and civilized and taught all useful arts and sciences. The grand question is not whether to be kept in this state, but how [to] be exalted from that state. Shall we do it by coming [in] contact<sup>38</sup> with the laws of the United States? Shall we do it by bind[ing] them to servitude for the space of 20 years, their women and children and [do so]<sup>39</sup> by an act of this legislative assembly? Is that the best way to redeem, exalt, teach, [and] instruct that race? We might, if we had the authority. [It would] be the best way if the United States [were to] give the full power to the legislative assembly of this territory to take that course. I do not now have any objections, but I have some reason to ~~have~~ believe it would be the wisest plan. But inasmuch as they<sup>40</sup> have not stated such right to us, the query arises whether it would not do the Indian more injury in the end to try [to] accomplish that by law [which] we have no right to make. So far as<sup>41</sup> passing laws, we have no need. Let it rest.

It is within our power to get licenses to go into their<sup>42</sup> midst and instruct them and teach them but I know of no law [to] prohibit us [from] redeem[ing] them from that miserable position. [We can] do it without any enactments. Let this legislative body make enactments to bring that people into servitude, [a servitude which] I consider anything more nor less than slavery. It is buy[ing] and selling. Though it may not continue down through other generations, yet it is binding them to slavery [for] at least 20 years. If we should pass such acts as this, the query is in my mind whether it would not tend in [the] future to cut off all the intercourse with those tribes.

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<sup>38</sup> I.e., conflict.

<sup>39</sup> Shorthand written over.

<sup>40</sup> U. S. Congress

<sup>41</sup> Watt wrote an extra "as" here.

<sup>42</sup> The Indians'.

The United States [would] become jealous of us.<sup>43</sup> [It is as] plain as this. They<sup>44</sup> would enact some strict laws that would prevent us from using the influence among them<sup>45</sup> that we can use now independent of any laws that now exists. If our hearts have filled with philanthropy for the tribes around [us, then] let us use the best means for their recovery. [If we] use the best means, [it will] result in their good in the end. Even though this be admitted not to be an Indian country, we have example[s] of states [or] nations of Indians right in the heart of an organized state, the state of New York. Did that state have the authority or power to buy and sell those Indians? That was not an Indian country and yet do we find the citizens and inhabitants of New York, by law, [asserting the right] to buy and sell them and bring them into slavery for 20 years or longer? We have no such laws as [that in] the state of New York. This would be assuming [a] new power position in regard to the Indians inasmuch as we bring them into this bondage—we might use another term—it gives the power to the people of this territory to enforce servitude upon [them].

Admitting that this is not an Indian territory, we have no right to make laws to prohibit the traffic of Indians, neither have we any right to make laws and sanction it one way or the other. It is not within the power of this territory to make such laws [to] prevent them from trading. What is the use of this assembly enacting laws upon the subject wherein the states have already enacted laws? If they have power to punish the Mexicans, if they have already this power in their hands to make laws and their officers are acting upon those laws, what [is the] use of this territory [in] making laws any further than this, that they shall be punished if they shall steal and

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<sup>43</sup> This was not a far-fetched proposition. Throughout the 1850s Federal officials worried that Mormons in the Great Basin were cultivating relationships with Native Americans that would work to the disadvantage of government Indian agents, U.S. policy, and the sovereignty of the federal government. See Brent M. Rogers, *Unpopular Sovereignty: Mormons and the Federal Management of Early Utah Territory* (Lincoln: University of Nebraska Press, 2017), chapter 3 and for additional context on the fear of a Mormon-Indian conspiracy that outsiders sometimes projected on to the Mormons see Reeve, *Religion of a Different Color*, chapters 2 and 3.

<sup>44</sup> U. S. Congress

<sup>45</sup> The Indians.

no further than this, in my own opinion.<sup>46</sup> Has this legislative assembly any power to act with regard to the Indians? If we wish to extend our philanthropy, let's look after better plans for the redemption of that people.

Wells<sup>47</sup>

I suppose there are exceptions to the general rules. I comprehend this is one. The gentleman observed no right or authority to legislate for [Indians]. I should like to know where we get that authority from to legislate for them in any manner whatever? What right had conquerors to legislate over Indian territory where the Indian title was not extinguished? Congress had no more right to organize this territory and pass a law, for according to their own policy, than we had to live there at any other quarter, yet we find them legislating. It was observed it might not be an Indian territory. There are exceptions to the general rules. With respect to Indians of New York, there was a policy carried out in the removing [of Indians]. Look at the policy of [the] United States from the commencement. How much has it benefitted the Indians? Their<sup>48</sup> policy is calculated to degrade the Indian character instead of elevating them. They<sup>49</sup> have become so set with regard to them<sup>50</sup> that some of their agents consider it better to exterminate them. I admit it is new ground. We have to break the ground wherever we act. The Indians have rights here. Their title to the land has never been extinguished, yet the country [was] taken from them by right, no[t] by circumstances. There was an American people here; they have rights. There is no law about this matter; [we are plowing] new ground. They have given us an organized government and left us to make laws for ourselves. If an Indian is

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<sup>46</sup> The point that Pratt makes here is in reference to the Luján trial. He argues that federal laws that were already in force, in this case the Trade and Intercourse Act, worked in the trial of Luján and his companions. They were arrested, found guilty, fined, and sent out of the territory.

<sup>47</sup> Daniel H. Wells.

<sup>48</sup> The U.S. Government.

<sup>49</sup> The U.S. Government.

<sup>50</sup> Native Americans.

found committing a crime against a white person why not bring him to law? When he commits a crime against his own tribe [is he] amenable in one case [and not] in another? Why not lay a good platform upon which they can [raise] up and rise in [the] school of natural existence and become useful not only to themselves but to [the] nations of [the] world? I am in favor of the bill [with] different language than it is at present. I have no fears of legislating upon this matter. I consider we have a perfect right.

Farr<sup>51</sup>

I ~~de~~ did not rise before to pass that bill. My object was to [shed] light and intelligence of my own in favor of passing bills and laying them over to 4 July. I believe in investigating a thing. Out of respect to that member [who previously spoke] that is not my principle.<sup>52</sup> I am in favor of [the] same in [nature/entire<sup>53</sup>] . . . . [We are] now got up in Indians, in their rights. I believe this territory have a right to make laws for [the] protection of Indians as much as they have for the whites. I would make a law and let it go and [if] Congress reject[s] it, just by the time it gets back [we could] make another [law] with slight variation [and keep] it going. But gentlemen, is it policy for us to traffic in these Indians, [to] draw away the child from the breast and bring them ~~in~~ here and sell them? [They] bring the Indians here [and] buy wool [and] sell [the captives] for a horse. I will get a horse, snatch up a child, and sell it for a horse, as it were. I[t] [would] be taking children from parents that would like to have them themselves. I suggest it for consideration of members in this council [that] I am not<sup>54</sup> in favor of their having [the] privilege of cutting his [parents] off. Cannot we make our laws to punish those men who do such

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<sup>51</sup> Lorin Farr

<sup>52</sup> It is not clear to whom Farr refers but it was likely George A. Smith who referred to Farr in his speech.

<sup>53</sup> Watt's intent here is not clear. "Nature" and "entire" are two possibilities, but neither clarifies the sentence which Watt did not capture in its entirety.

<sup>54</sup> "I am not" appears to be written over "~~I am.~~"

things?<sup>55</sup> I would not have the gentlemen to suppose for a moment that I was in favor of ravishing those [girls], [of] making [a] law to use them up for that business.<sup>56</sup> If it be considered policy that we buy all the Indians of [this] territory [who] present themselves, [then I am opposed] to it. I want the bill investigated. [We should pass] something whereby we can protect those Indians in their rights. [We should enact] laws that if any buy or sell [Indian captives, they] shall be subject to severe penalty. If they take white women[']s children, we can pass a law that they have their heads cut off if we choose. I do not wish this policy. I ask, is it policy for us to buy every child that shall be brought here for sale? Yes? I [do] not consider it to be servitude any more than it is with the white [boy]. I therefore, I differ with the one gentleman. Take up a boy in [the] street [who is] bound out until he is of age—[but] not to exceed 20 years—[and who is] educated four months in [a] year and if that master does not take care of [his] children then he is liable to be dealt with. They are under the same law and regulation as our own children would be if we take care of them ourselves. But for us to buy up all the children [that] comes in our reach and publish it throughout this territory [is not right].

While I shall leave that for the consideration of this council I shall not say it is not policy but I have suggested these few ideas relative to what might be policy or what might not.

Wells<sup>57</sup>

[To] buy them from the most loathsome slavery is their freedom.

Spencer<sup>58</sup>

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<sup>55</sup> Farr is referring to people such as Luján and Indian slave traders. He believed that the law which lawmakers wrote should be aimed at outlawing and punishing those who trafficked in humans rather than regulating those who purchased the captives.

<sup>56</sup> Farr is responding to George A. Smith here.

<sup>57</sup> Daniel H. Wells.

<sup>58</sup> There is no speech recorded for Orson Spencer.

Council January 27<sup>th</sup> 1852<sup>59</sup>

An act for the relief of Indians was read by the clerk. Motioned and second[ed].

Farr<sup>60</sup>

I feel to continue a few remarks upon that matter and endeavor to be brief. The bill, as I have already [stated], I consider [to be] of great interest unto this honorable body and [to the] citizens of Utah Territory. I have no fears myself but what we have a right to make laws to purchase these children within most counties in this territory. There is a debate on the minds of many whether this is Indian country or not. For my own part, what I have heard, [or] read of law [of the] United States, and read myself, I am led to [the] conclusion that this part [of the country] is United States territory and not Indian country.

There was a law passed by the United States some few years ago making laws and regulations pertaining to the Indian country west of [the] Mississippi River and also [to] Indian country in territories east of [the] Mississippi country.<sup>61</sup> [This law] show[s] that Indian country [is] existing in the same territory [as white settlements] and as we are without law in particular to our affairs here and as that law does not apply and to . . .<sup>62</sup> I am led to conclude that we have a portion of country here as being United States country and that portion [which is] not organized in[to] [a] county and inhabited by the whites, is Indian [country] and when a man goes on to that ground he is subject to [the] laws of [the] United States pertaining to [the] Indians. If this territory which has been organized, if [it] is deemed for a moment as Indian territory we then are, all of us, subject to heavy fine and [to] having all of our property confiscated every day of [our]

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<sup>59</sup> This is the first date recorded in Watt's shorthand record for the Indian indenture debate. It is evident that this marks a second round of debates.

<sup>60</sup> Lorin Farr.

<sup>61</sup> Farr is here referring to "An Act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," 30 June 1834, *Statutes at Large*, vol. 4, 23 Congress, 1<sup>st</sup> Session, (Boston: Charles C. Little and James Brown, 1846), 729-735.

<sup>62</sup> Watt failed to capture the rest of the sentence.

lives. Do we suppose for a moment that [that] was the design of Congress, knowing we [settled here] and made claim here and giving us [an] organic act to be governed by [territorial law]? I am persuaded [that] this is not Indian country, but United States territory. We are legislating for and having a right to make such laws as we think proper for the benefit of this territory.

I would be in favor of making a law to purchase these Indians from their low degraded filthy state [which they are] now in and the more I think of it, the more I am convinced of the propriety of our making a law [to] purchase these Indians and [of] making such laws and regulations as for their happiness after we obtain them. If it was in our jurisdiction to make laws to govern the traffic of Indians throughout the whole boundaries of this territory [then we should], but as the United States govern[s] the grounds [which] the Indians claim and if Mexicans or [citizens] of Utah territory [come here] and traffic among them, they lay themselves under a fine of \$500 each. [But if they] come within the purview of our own organized territory I would be in favor of [adding] some[thing] further to that bill and perhaps before I sit down [I will] make a motion to refer the bill to committee.

I would be in favor that any person have a right to trade in these counties with these restrictions: they shall not deal any liquor to the Indians whatever and that they should be prohibited from purchasing their coats and blankets and many other articles [we] might mention which I am aware the honorable chairman of that committee can include. For very good reasons I view and I think that when the Indians come into [a] county to trade skins for ammunition, as they live by hunting, it is their right to have ammunition. We can control them [for] we have ammunition. Again, in cases [in which] they want to sell skins for flour and the females being poor and have not the means of purchasing their clothing, let them purchase skins of them and make their clothing. I believe that Indian traders have no business within our jurisdiction

whatever. The ground that is inhabited by the Indians [and] not inhabited by the United States, I consider to be Indian territory. Then I go in for laws to be made giving the citizens of the respective counties a right to trade with the Indians but any further than those counties—if they go out of those counties—they are on Indian ground and subject to the United States law. I would move that the bill [be] referred back to a committee to make laws [and] regulations as shall be seen wisdom by the committee. These are [my] views and [I] shall submit the case.

Pratt<sup>63</sup>

I do not wish to occupy too much of the time of the council in relation to this bill yet I do feel as though we ought [to] occupy sufficient time not to pass principles that will be calculated to do us injury and no good. The reason I say this will do us [no] good is upon this ground: the same ground [we] talk[ed] [upon] yesterday, upon the same subject, that if the United States have passed laws prohibiting the buying and selling of Indians, this territory have no right to pass laws of opposition to their laws—that [much] we all admit. On the other hand, if the United States have made no laws respecting this matter, we are at perfect liberty to buy or to sell or deal with the Indians. In relation to any subject, so far as they<sup>64</sup> have not made any laws in relation to that subject [we are free to act], but [if Congress passed a law] that [was] independent of enacting a law by this council, [we] consequently [would not make a law in contradiction to that passed by Congress]. Where is there [precedent] of [a] law being enacted upon this ground?<sup>65</sup> There would be no use, and furthermore it would be entirely wrong in us, to make laws contradictory to that which we had evidence to believe was in existence. On the other hand, if

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<sup>63</sup> Orson Pratt.

<sup>64</sup> U.S. Congress.

<sup>65</sup> This section of Pratt's speech is particularly confusing and seems to be a mix of ideas which it is difficult to untangle. Watt apparently missed some words here while turning the page, not an uncommon occurrence among shorthand recorders. We have offered a possible reconstruction which matches the sentiments expressed in the surrounding sentences.

they have made none, what use [is it for us] to make laws giving people [the] privilege, [to] have [the] privilege to do [something they already have the privilege to do, such as a] law [which gives] the people [the] privilege to travel from one mountain to another? It is only granting ~~them~~ that which they already have. And shall we legislate upon subjects [which will] be of no benefit to this territory [or] make laws granting the people [the] privilege to do what they have no right to do? Consequently, [I] consider it one of the most foolish things [which] should be thought of, to legislate upon an act of this nature.

Wells<sup>66</sup>

It is true there is no law prohibiting us and that we have the right to purchase Indian children. Without a law, owing to [the] circumstances in which we are placed, whether we have the right or not, we do it; it is done constantly.<sup>67</sup> Now what shall we do under this set of circumstances? Shall we permit them to be purchased and held as slaves or shall we make a law which [allows for] the purchase of them, which takes them from the purchaser and places them under protection of our court? That is the question, not whether we will permit them<sup>68</sup> to be purchased, but whether we will suffer them to be held as slaves. That is the nature of [the] bill before us. It is to take them not only from the bondage and slavery which is their nature, [but] to hinder them from being purchased [in order] to bind [them] to slavery. But [our law will] put them under guardian[ship] where they may eventually be civilized and become useful to themselves and [to the] nation. [I]<sup>69</sup> see a propriety and benefit to [the] Indian child in the provisions of this law. ~~we know~~ The humanity of our nature causes us to purchase an Indian child [which is lariatied out], it to be sold for a penny etc. [It is] an act of humanity. Now he

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<sup>66</sup> Daniel H. Wells.

<sup>67</sup> Wells, here, is referring to the reality on the ground that Mormons have already purchased Indian children.

<sup>68</sup> Watt recorded a stray “that” here, as in “will permit them that.”

<sup>69</sup> Watt recorded an “a” instead of an “I” to start this sentence.

dooms that child to slavery unless some law takes him from his custody and puts him under that of [the] territory. This is a law that regulates these matters, hence the propriety of it.

Hunter<sup>70</sup>

I have witnessed that a great many Indians [are] taken up here and murdered. My idea always is to obtain an object I set out to obtain. [I do not like] this section before us. We must devise such plans [to] save ourselves [from] this thing of purchasing and keeping them for 20 years and give them four years schooling. Who will [be] doing it? I would not take one of those Indian women; it would be [the] worst punishment [which] could be placed upon me. We must introduce a plan to hinder this barbarous treatment. ~~I do not think we could~~ No person is going to take an Indian child and school it and bring it up. As for an Indian woman, I would not have [one] about my place. They can be obtained with more propriety and could be purchased and I wish the committee to alter the thing. I do not think they could be released from their present condition.

First section of bill read.

Williams<sup>71</sup>

[I have] a few remarks. I do not look at things together as some of the council. For instance, [this bill is] well, as [long as] it respects the laws we made to prohibit them . . . .<sup>72</sup> [There are places] where the Indian agents are permitted to buy and sell without [a] license from the United States. The laws that passed was not in relation to the territory, but the trading [and] carrying anything off.<sup>73</sup> [We should not be concerned about conflicting with] the interest of [the]

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<sup>70</sup> Edward Hunter.

<sup>71</sup> Alexander Williams.

<sup>72</sup> Watt failed to capture a complete sentence.

<sup>73</sup> Williams is likely referring here to “An Act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers,” 729-735.

United States, for that should be the object of [the] United States. Then if we care for the status and wellbeing of [the] United States, we should increase [our efforts], taking that means and measures to secure it among the Indians and if it be injurious to us and [to the] United States to make such a law we should not make it.<sup>74</sup> About Indian territory: it means to some that this territory, having become the territory of Utah, if [it is] not some [Indian] territory. If the incorporation of the territory makes it not Indian territory, why then it is so, it is not an Indian territory [and] not an Indian nation. No, it is contradictory in our organized bodies. Next [it] comes down to counties. As to myself, I do not say why counties hold preference over the whole territory.

Could there not be a law inserted in this way, that those Indian children that are purchased come under the same laws [as an Act in Relation to Service], having them compensated [by] the man who has purchased them? I would like that in [this bill]. I

Pratt

~~the question is now open to~~

George A. Smith

The object of the bill is to put a stop to [the] sacrifice of [children]. If we put in agents, while they are men [out] smoking cigars in [Salt Lake City], [in] some of our scattered counties, [Indians come and say], “I want you to purchase this girl or boy.” [If we reply,] “you must go [to] the Great Salt Lake City,” [the Indian traders will say], “I will not go there, but I will knock out his brains.” [This will happen far] away from the government. Gentlemen, I am opposed to this amendment because it do[es] not cover the ground.<sup>75</sup> I know there is no way on [the] face of

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<sup>74</sup> Williams’ point here is not clear, a fact exacerbated by the choppy nature of the shorthand record.

<sup>75</sup> It is not clear to what amendment Smith refers, but the context suggests that an amendment may have required those Ute traders with Indian children to sale to take them to Salt Lake so that the trade could be more fully regulated.

[the] earth to escape this matter. [It is] known to [every] human in every farmhouse etc. [It is not feasible] to meet the provision of this act.

Spencer<sup>76</sup>

I do not know that I have much new [to add] upon that point, however, I take another ground on this subject. Was [it] not the decision of the council that we have a right to legislate and make purchases of them? I should now be in favor of some thing like the amendment, unless the committee make[s] some more favorable [recommendation].<sup>77</sup> If we have a right to purchase their children and to interfere at all with their customs—buy[ing] and selling and gambling—and it is supposed [that] we have a right, that men would dictate and prompt us to interfere with them, though it is not always the case, it is right. I would think we had better strike at the root of this evil and not pass a matter of such magnitude [as this:] of that of buying and disposing [of] the remnants of Israel on these mountains with no paltry relations. I[f] we do up the thing [with this] law and something like agents be appointed and disposing of those subjects of [slavery] and also to instruct the tribes in agriculture in cleanliness and self-respect and in all those wholesome duties such [as] the United States government has recognized as important to be taught to all the Indian tribes and which the Father of us all recognize[s] as being right to be taught to them.

Suppose the Indians [were] allow[ed] us to purchase our children? [What if we] let them come to our settlements [and] decide they will kill your child or some child? [What if] before [they] come to our settlements [they] kill their children under ignorance [or] barbarity? Of [right] of the [act], we shall not rebuke the evil. I apprehend by giving the citizens liberty to purchase them . . . .<sup>78</sup> in the arguments of counsel of . . . .<sup>79</sup> We can scarcely take care of our own children.

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<sup>76</sup> Orson Spencer.

<sup>77</sup> It is not clear to what amendment Spencer refers.

<sup>78</sup> Watt failed to capture a complete sentence.

<sup>79</sup> Watt failed to capture a complete sentence.

[We are] wonderfully [pathetic] with regard to civilizing our own offspring. [In relation to] this down-cast, down-[trodden] nation, they are worth some [respect]. I would say send men in[to] the bosom of [the] tribes themselves to live there and learn their tongue, to show them we have [the] feelings of men abiding in [our] bosoms towards them; show them we are their friends, ~~and we can~~ inculcate our principles in their minds. We can do [it] and I believe if it is our duty to meddle at all with those Indians, [it] is our duty to send men among them and we [can] have men go among them and live among [them] upon principles of salvation. We have men that will go there and labor and toil and suffer for the sake of doing them good. I am for carrying out the [plan in that way] and [not] in start[ing] by [stipulating that] anybody [who will] buy an Indian child and take it [to a] probate court [can indenture that child]. [Will] anybody do this? No, [this person] won't do it and the other [person] won't [do it either]; [no] one [will] do it. And you go to my neighbor; he has no children. [He would] probably buy [an Indian child], but then say, "I do not want the trouble to take this child to probate court." [We should] go into it more humanely [than that]. By sending men to plant the principles [of the gospel] in their bosoms, in their own [country], there is something about this [which makes it a better plan].

[My] feeling [is] against it [the bill] all the time. They<sup>80</sup> seem indifferent [about it and do not think that it is] great and good. [There is] something lacking about it, something very deficient in that little scanty bill and [I] hope it will not pass until it is amended and improved and [I] hope the gentlemen [will] be patient and let it be discussed ~~until~~ from morning until evening [the] next day, until they get it right.

Motion read again.

Wells<sup>81</sup>

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<sup>80</sup> It is not clear to whom Spencer refers.

<sup>81</sup> Daniel H. Wells.

It seems true that there is something wanting to satisfy the minds of [the] counsel in relation to this [bill], but I comprehend that [the] thing [that] is wanting [is] the title. Of the things in the bill, it appears [that] all that they want [to] have done would be futile to the provisions in [the] bill. I did suppose until this morning [that] they felt anxious; they wanted the bill so amended, if it could be done, [to] come in contact to the laws [of the] United States. Hostilities to it [are to the] title [and have] no relation to it. With regard to [the] appointing of bounds, that [is something] the United States have already done—that and it would be legislating upon grounds [which] the United States already have done and that would not meet the demands in the case. Congress do[es] make preparations for [the] establishment of schools [and] farms. Who [is] sent there? Someone with our expectations introduce[s], someone introduce[s] his liquor and [thereby] degrade[s] himself to the level of this people. How can this be accomplished [in our] resolution? If that were contained in a lawful resolution [it is upon] a broad basis. What could Indian agents do? [He] has not the means and ability to do so. Every man in [this] territory may with a gun or any other thing purchase them [an Indian child] and take them into the bosom of their own families. [It is] the most suitable place you can find for them; [there is no] better place for them. How could [we] find [a] better [place] for the child than [that which] comes in the main provisions of the law? I care not if he had not a month's schooling under the influence of civilized humanity and he may yet learn to know the God of his fathers. The guardian, according to the provisions of law, [stipulate] that he, if he does not fulfill his duty as guardian, he may be released.

Farr<sup>82</sup>

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<sup>82</sup> Lorin Farr.

I would like to make a few remarks. I cannot see why [there is] so much opposition to this bill. If the opposition cannot maintain its opposition in one way, [they] resort to another. I thought it was wisdom to refer the bill to committee. They would not go in for it being referred [to committee], ~~they~~ now they do not want it to be referred. [They] do not stick to the text all the time. I want to know what harm [is] in that bill? Everything [that] has been said shows that there is an actual good rising out of that bill and for us to send missionaries to those low degraded stinking Utes, who wants to do it? I do not. I would rather buy them into liberty and place them under regulations there prescribed [so] that they have the same chance and liberty as our own boys. Yet the same gentlemen that voted for four months' schooling, [now] note [that] they do not want them about, yet straightway we vote our own children 3 months' schooling; it is enough for them. If I had a child I thought a great deal [about], I would give him 9 months, but ~~they~~ they are compelled to give 4 months. Here is a law providing that they shall be brought up into education [and thereby avoid] anything degrading [to their] mind, [life], or [existence]. In that bill I have not seen . . . .<sup>83</sup> I go in for relieving those poor creatures according to the tenor of that bill, but to appoint agents, we have agents. How [does it work] in Iowa? [Who controls] trade and traffic with the whites in Wisconsin? Say [that] they can come here and trade with the whites, [there is] no law against it, but when we go on Indian ground [which] has not been formed into [a] territory then we ~~have~~ are in their ~~hands~~ power.

Pratt<sup>84</sup>

As I made the motion I now feel desirous to give my reasons. It has been stated by one of [the] gentlemen that has spoken that he was of the opinion that [there was a] motion for the

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<sup>83</sup> Watt failed to capture a complete sentence.

<sup>84</sup> Orson Pratt. The shorthand here is more clearly written than above, which suggests that Orson Pratt was speaking more slowly and deliberately, which would allow Watt time to write more carefully.

destruction of [the] bill. Well, I will tell you my sentiments with regard to them. [You] know it. I have been from the commencement of [this] bill opposed to it for the fact that I do not believe we have the right to legislate upon the subject and have made all my motions previous to this last one for the intention of destroying the bill if possible in that I believe in the philanthropic principles that exists in [the] bosoms of [church] members towards that race. I believe in [the] same principles. [We should] use every means in [our] power to benefit the Indians. I do believe that the argument that I have already presented is that, is this: it is something that is certain in my mind, that if the United States have passed laws [designed to] prohibit us from taking the course we are now about to take, then certainly there is no gentleman but what would admit it, hence we have no right to make laws in opposition to their laws. On the other hand, if they have not made any such laws, we have [a] right to purchase every Indian [man], child, [and woman]<sup>85</sup> throughout this territory without enacting [the] first sentence of [the] law upon the subject [if] the United States have not made laws upon the subject. I ask what benefit would it be to enact a law in this territory to have [the] right to go and bathe in [the] Salt Lake? They are having that right unless they have been prohibited by another law. These are the grounds I have taken and the actions raised against [them] that it is unnecessary to enact laws to buy [Indian children] but necessary<sup>86</sup> to enact laws to govern them after they are purchased. For they are free; they are purchased without law and they are free and our laws would have [a] tendency to bind them. It has been argued that they are about to be made slaves. [They] cannot be made slaves, unless by law [they are] made such. No person in this territory can purchase an Indian woman [or] child

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<sup>85</sup> “Man” and “woman” are both written mn; there is no way to determine which word it is, though man is usually written with a different symbol. This phrase could also be read “woman, child, woman,” unintentionally repeating woman. Note that below Pratt only refers to “woman child.”

<sup>86</sup> Transcribed *necessary* from context. Word could also be read *unnecessary*; the difference between *necessary* and *unnecessary* is the initial vowel, which Watt often omitted.

and make them slaves without [a] law [so stipulating their status]. [There is] no danger [of that here], hence I see no necessity of this assembly making a law upon this subject. We [either] have or have not [that] right; if we have that right [a] law will not make it no more right. [If] we [do] not have a right, [then] we have no right to make [a] law infringing upon the United States. Why have they sent agents [here]? Why have they? This territory shall not be recognized among them but [it will] be [a] separate government. Because of this, [they] sent their servants here to take charge of [the] Indian population. This shows that they have the sole jurisdiction of that business. [That is] the reason why I made my next motion. I [would] go in for them to make agents [and] make treaties, appointing boundaries of their lands, and making all [rules] regulating this affair and let those petty [officials] sent from Washington go home again. [We should not get] carried away with those petty affairs. [If] things come out, the law [will allow us to] go and take them under our control. If anything is to pass, I want the Woolley act<sup>87</sup> to pass.

Afternoon, January 27, 1852

[satous<sup>88</sup>] and large Indian tribes etc.

Pratt

[I] move that the first section of [the] bill be struck.<sup>89</sup>

I beg leave to make a few remarks. In relation to this bill, previous to passing it in any form heretofore I have acted not because I were in possession [of] any facts made by Congress in relation to the Indian tribes because I never was a lawyer nor studied these matters. [I] acted upon [the] best light I had upon [the] subject but during [the] few moments of intermission I

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<sup>87</sup> Edwin Woolley was in the legislature, but there was no known bill that session officially referred to as the "Woolley act."

<sup>88</sup> Written: s (or st), a (as in *at*), t, ow (as in *cow*), s.

<sup>89</sup> Because there is no paper trail revealing the ways in which the bill changed over time, it is impossible to know if the Section 1 of the bill as passed is the same Section 1 that Pratt wanted "struck". For Section 1 of the bill that became law see Document 3 below.

have examined [this bill] so far as to confirm me in [the] position we have taken in regard to that bill, that we have no right whatever to make the first law with regard to trading with the Indians even for a second. [This is my position], that this legislature have no right [to legislate on this matter]. The first section which I will refer the council to ~~is~~ is in [an] act passed last winter, February 27, 1851, section 7<sup>th</sup>: “and be it further enacted that all and is now in force regulating trade and intercourse with the Indian tribes or such provisions of same as may be applicable shall be and the same are hereby extended over the tribes of Indians in territory of Mexico and Utah.”<sup>90</sup> That is just as binding upon the territories of New Mexico and Utah as upon any other nations of Indians.

We will now appeal to the minds of [the] United States which I can point out more than 50 instances where the United States have assumed the exclusive right to regulate trade and intercourse with the Indian tribes, the first I will refer [to] is article 9<sup>th</sup> ~~made~~ with the Cherokees, if I mistake not. “The United States shall have the sole and exclusive right”—now pass to numerous sections upon the same subject—we will take the Pawnee tribe next, on 280 page. The same thing is in another article serving the Otoes and Missouri, article 3<sup>d</sup>, 334 page.<sup>91</sup> Any of these articles which I might refer to, [there are] 50 [more] on [the] same subject. The United States claims the sole and exclusive right to regulate the trade with the Indians. [It] matters not where they live. If the gentlemen argue [that] there must be a treaty previous to these laws being binding, then why did [the] United States extend these laws over this territory? It would have been folly and nonsense for them to have said [that] they shall be regulated by [the] law

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<sup>90</sup> Here Pratt referred to “An Act making Appropriations for the current and contingent Expenses of the Indian Department, and for fulfilling Treaty Stipulations with various Indian Tribes, for the Year ending June the thirtieth, one thousand eight hundred and fifty-two,” 27 February 1851, *Statutes at Large*, Vol. 9, 31<sup>st</sup> Congress, 2<sup>nd</sup> Session, (Boston: Little, Brown, and Company, 1862), 574-587. It is the same law on which Judge Zerubbabel Snow relied for his decision in the Luján case. It is an indication that Snow’s reasoning and evidence influenced legislators.

<sup>91</sup> Here Pratt cites treaties with various Indian nations but we have not been able to determine the book and page numbers to which he refers.

governing [the] tribes. We [do] not [have] the right to purchase skins, furs, and ponies, much less have we the right to purchase their persons and if we pass a law of this description, unless some controlling ~~that~~ power that directs the mind of Congress [intervenes], they will repeal it. If they should repeal it, will this tendency [continue]? I fear not their repeals, [but] look for the welfare and benefit of [the] people here. If we pass laws to be repealed and every [reasonable law<sup>92</sup>] will be repealed, [it] will cause them to look to this territory with a jealous eye. When they see us in the offense the eyes of [Congress will be upon us]. [They will repeal] law after law, article after article, pertaining to the Indians where they assume the exclusive right of making laws to regulating trade and we get up laws not to purchase ponies but the Indians themselves.

I observe another thing in reading these laws, [that is] that the United States recognizes them [the Indian nations] as independent and separate nation[s] and they have just as good a right to enact laws to buy the white citizens upon these lands and make them serve 20 years as we have to make laws concerning them. Inasmuch as they are [a] separate nation it has already been conceded by the gentleman that the United States have ~~their~~ this exclusive right. Consequently, I do consider it—though we may say we will perform the act—yet I do consider it as inexpedient. All things may be lawful, [but] all things are not expedient.

The bill was referred to a committee on Indian affairs. By a unanimous vote. Daniel H. Wells chairman.

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<sup>92</sup> Written: *r, s, n, bt or bd, b, l.*