

Correspondence.

Progress—Improvement—Festival.

MIDWAY, Feb. 25th, 1875.

Editor Deseret News—

In the month of February, 1863, twelve years ago, I came to live in Provo Valley, and took up my abode in an old slab shanty, about 10x12 feet square, it being one of a number that had been built the year before by several families that, like myself, had come to settle down and make for themselves homes in this part of the world. The families alluded to had left the shanties when I came, and were living in log cabins, which they had built on lots that had been laid off and surveyed by the county surveyor. A rickety concern, called a saw mill, stood by the creek, and a little to the north stood a long flat dirt-covered log building, which served for both school and meeting house, and this is what was then called Mound City.

Another settlement had also been made some two miles to the south of this, that could boast of the only grist mill in the valley. At this mill we could have our wheat ground, smut and all, into flour, from which our wives could make bread pretty near as black as a hat. But in a few years a great change took place. The Indians got a little vexed at something or other. I suppose they had taken a few doses of modern "civilization," which caused us to pull up stakes, tear down fences and houses, and all hands come together and both settlements unite in one and commence anew to build up another place midway between the first two settlements. This is the reason why our present location is called Midway. The old slab shanties have disappeared, the saw mill has been put in good repair, and, as well as another one that has since been built, makes first rate lumber. So you see we have now two saw mills. We have also two good grist mills in the valley, at both of which a splendid article of flour is made. The old log school-house has gone, and we have built one of rock, that to all appearance, is as solid as the hills. A good school is kept in it, Sundays and week days, and on last Friday evening about seventy or eighty couples partook of a most splendid supper.

It has been the custom with the lesser priesthood quorum to have a dance once a year. On last Friday evening they enjoyed themselves with their invited guests in a dance in our new and handsome tithing office. At eleven o'clock p.m. we all went over to the school-house, and took our seats at tables that had previously been plentifully supplied with the good things of this world. All who partook seemed to enjoy themselves and to be satisfied. Much of the food was not consumed and was given to the poorer part of the community next morning. Altogether this was a splendid affair, it being the first time in the history of this place that any feast of the kind occurred.

The Swiss brass band makes great improvement; the music they make sounds delightful. The Swiss brethren have built them a new music hall. It is so far completed that they can practise in it, and Brother John Huber keeps school in it.

We have had a favorable winter so far. Good health prevails, and the Saints are living their religion, G. DABLING.

Capt. Boynton, in his diving dress, calmly paddled himself from Wapping to Westminster, with the American flag flying at the head of the mast, which stuck in his belt. His progress created a fair amount of enthusiasm, and scientific men who have examined the dress declare that it is perfect in its way.

The production of "Henry V." at Booth's Theatre, New York city, requires forty-four actors and actresses, four hundred and twelve supernumeraries, and fifty-five ballet girls. In the battle scene at Agincourt there are more than three hundred persons on the stage at one time. The production of the piece involved an outlay of \$40,000.

At the close of a burglary trial in the King's County court of sessions, New York, Gallus Schaarschmidt, a burglar, who unexpectedly turned State's evidence, requested the judge to marry him to a witness named Mary King. The judge did it, amid considerable excitement in court.

BOREMAN vs. BATES.

THE "SEPARATE AND SEVERAL" ANSWER OF GEORGE C. BATES, ESQ., TO JUDGE BOREMAN'S ORDER CITING HIM TO SHOW CAUSE.

In the matter of J. G. SUTHERLAND and GEO. C. BATES. Territory of Utah. In the Second District Court of said Territory, Beaver County.

Beaver County ss.

The separate and several answer of George C. Bates, Esq., attorney and counsellor-at-law, to the rule entered in this court of the 15th of February, 1875, requiring him "to show cause on the first Monday of April next, why he should not be punished as for a contempt, and be prohibited from practicing his profession in said court, by reason of professional misconduct and delinquency and insolent behavior," respectfully sheweth unto the court:

1.—That the acts stated and set forth in said rule, constitute no contempt or cause for punishment under the laws of Utah; that they do not amount to "disorderly, contemptuous or insolent behavior towards the judge of said court while engaged in his official duties at chambers."

2.—That if the facts charged in said rule constitute a contempt under the statutes of Utah, then the sole and only punishment therefor is by fine not exceeding two hundred dollars and imprisonment not more than five days.

3.—That said rule is multifarious and demurral in requiring respondent to answer, first, for a contempt, and second, to show cause why he should not be prohibited from practicing his profession, charges for which distinctive forms of trial, evidence and diverse judgments are prescribed by law.

4.—That respondent has never been admitted to practise in this court, but having been licensed by the Supreme Court of the United States to practise in all United States courts; and also licensed in the Supreme Court of the Territory of Utah to practise in all courts of this Territory by virtue thereof, by the rules of said Supreme Court he is entitled to practise in this court until such licenses are revoked by the courts granting them.

5.—That by the statutes of Utah, approved March 3d, 1852, it is provided: "That the right of being heard, by self or counsel, shall not be denied to any person claiming a trial as plaintiff or defendant in any court in this Territory, and it shall be the duty of all judges of courts of this Territory to grant a hearing as counsel to any person of good moral character, chosen by any person or persons to prosecute or defend a case in which he or she is a party." That said petitioners did choose and retain this respondent and his partner to be their counsel in December last; that respondent has prepared their cases for trial, examined all the evidence and witnesses, and that his partner, Sutherland, knows little or nothing of the facts, or evidence to be produced, and that no other person in Utah has examined into the testimony and evidence for the defence, or is prepared to prosecute the same except respondent.

And this respondent, saving and reserving unto himself all and all manner of exceptions to, and the benefits of the above allegations in law in the same manner and to the same extent, as if set forth by a special demurrer to said rule; and to the jurisdiction of this court further answers under oath as to the facts:

1.—That he never, in any manner, at any time or place, counselled or advised the defendants mentioned in the petition, referred to in the rule, or either of them, to depart beyond the jurisdiction of Utah; and that he never saw or held converse with them, or advised them or either of them to conceal themselves, to go or stay beyond the jurisdiction of this court or avoid its process.

2.—That in filing the petition and motion set forth in said rule, his sole object and purpose was to insure a speedy trial in this court of the several indictments against said petitioners; to remove all obstructions and hindrances thereto. That he neither intended, purposed, nor meant to treat the court or judge with insolence, insult, disrespect, or contempt. On the contrary he acted in perfect good faith and

from the purest motives; and had he had an opportunity at Salt Lake, in an interview which he had with the judge, he would have stated the whole matter orally to him, and was only prevented from doing so by an interruption. Respondent disclaims on oath, in the most solemn manner, all thought, purpose, or intent to treat this court or its judge in a disorderly, contemptuous or insolent manner; nor did he suppose it possible that the petition presented, the motion made, and letter enclosing the same, could be construed as disrespectful, illegitimate or improper.

3.—That if said petition, motion and letter are capable of any such legal construction as are given to them by the judge, respondent is now utterly unable to comprehend it, and disclaims all purpose, intent or desire to treat this court and its judge in any other manner than with the most respectful deference, dignity and decorum.

4.—That Jabez G. Sutherland, his partner, had no part nor lot in the preparation of said papers—was utterly ignorant of their contents, that the sole and entire responsibility for filing said petition, motion and letter rests upon respondent, and punishment should be inflicted on him alone if punishment there be.

Wherefore respondent prays that the said rule may be discharged and he will ever pray, etc.

GEO. C. BATES,

In pro. persona.

SALT LAKE COUNTY, ss.

George C. Bates, being duly sworn, deposed and saith: that "I drafted the foregoing petition, that the same contained the truth, the whole truth, and nothing but the truth, so help me God."

GEO. C. BATES.

Sworn to and subscribed before me, this 5th day of March, 1875.

JULIA K. SUTHERLAND,
Notary Public.

Our Country Contemporaries.

Utah County Times, Mar. 6—

Notwithstanding the inclemency of the weather the Court House was well filled on Thursday evening by our citizens, to see and hear the Governor. His Excellency entered the room accompanied by Mayor A. O. Smoot and the committee of reception, who escorted him to a seat on the stand.

After music by the Provo brass band J. B. Milner, Esq., in a few appropriate remarks, introduced Governor Axtell to the audience.

His Excellency arose and said: I am gratified that I have the opportunity of being introduced to so many of the citizens of this Territory. For when persons meet together and see each other, and take each other by the hand and look into each other's faces, it ought to make us more careful and unite us closer together in the bonds of brotherhood. I always feel a renewed desire in my heart when I look into the faces of an intelligent people, to be very careful not to do or say anything that would deprive them of any rights as American citizens. I am here only for the purpose of being your Governor, that is, if you, the people will let me govern you. And the only desire I have is to do the people good and simply perform the duties of my position, and all I can hope to do in that capacity is to do the best I can in my career. My ancestors before me for a good many generations were citizens of the United States, long before the revolutionary war; and I have the impression on my mind that the citizens of this Territory will not tarnish the fair name of our country. And knowing the fact that there are forty millions of people in these United States, we ought to have a common interest and be as brethren, for we are bound and connected together by upwards of seventy thousand miles of railroad and telegraph communication. All the States have the common law and are governed by law, and we have the same law for our protection, and it is of the utmost importance that the laws of the United States should be respected and obeyed. The United States government governs all the States and Territories yet each State and Territory are free to govern themselves. The whole people therefore ought to be bound and cemented by one common thought, for in union there is

great power and strength. I assert that there is a power that is far greater, more powerful, and far superior to that of Congress or of the Supreme Court of the United States, and that is founded in the people. It is with the people alone that we have to deal. The necessity of education is also very important, and it makes very little difference whether we receive it in our lyceums, rostrums, from the pulpit or press. It was said by Jefferson of old that there was no actual danger as long as truth could combat with error; and in the language of the poet "Truth crushed to earth would rise again."

Immigrants in moving and traveling from one country to another do not lose their intelligence, and you who have traveled and located in these mountains came here to be independent and to choose your own ways, and to worship the Lord according to the dictates of your own consciences. The people who are raised in a mountainous country are not a people that will ever submit quietly to injustice and tyranny. How much of health you as a people enjoy and have an abundance of everything, good houses, and they all seem to be full; and how little pauperism you have in your midst. You are a people of necessity, you desire peace, and seek for peace, and live in peace with all people; and in the language of Him who spake as never man spake, when He was reviled He reviled not again, so have you in like manner. All I can say is, that it is the surest way to happiness and success.

The iron, coal, and the precious minerals with which you are surrounded, will in time be a source of wealth to the Territory. Ambition, and the highest ambition every man ought to have, is to establish a beautiful home and adorn it, and make for himself a home of comfort and happiness, full of kindness and refinement. As citizens of the United States and of the great Republic you have this all offered to you free, simply for your good conduct.

I thank you for this opportunity of meeting with you, and I will endeavor as your governor, to the best of my ability, to administer the law in justice and equity. (Applause.)

At the conclusion of the Governor's remarks the Provo brass band discoursed some excellent music.

His Honor, Judge Emerson, and Mayor A. O. Smoot were called for and made a few pertinent remarks, and after music by the band the Governor was introduced to over two hundred ladies and gentlemen of the audience.

Hepworth Dixon on Utah Affairs.

SALT LAKE CITY, January, 1875.

For several years the public law and public force of the United States have been directed at polygamy in Utah. Means both fair and unfair have been tried. Grave men have often had to shake their heads about the course adopted towards offending saints. In the first place, exceptional legislation has been used; and in a free country, governed by majorities of votes, exceptional legislation is often a danger, always an offence. It looks as though the law would not suffice. In the second place, a camp has been established near the New Jerusalem; an American city, with a natural claim to live according to the will of the majority of citizens. This camp has been established, with the object, openly avowed, of preventing the majority of citizens from living their own lights; and therefore is, in free America, an utterly abnormal fact. In the third place, the Common law, including trial by jury, has been practically suspended in this Territory—for a denizen in Salt Lake City is not, as in other parts of the United States, allowed fair trial before his neighbors and his peers. These things suggest the failure of attempts at government for the people by the people; therefore, the failure of American institutions! Nor can a serious thinker tell where the reformers may be good enough to stop. A western man who has been named to me as not unlikely to be, some day, made Governor of Utah, cries to me, across the dinner table, "Sir, we are a law abiding people, and, by G—, Sir, we will cleanse the place by fire and sword." "You would employ force, instead of law?"

"Yes, I'd hang them all, and burn their houses to the ground." "Without trial, proof and condemnation?"

"Yes, d— them! They're a set of outlaws. They have no right to be tried by any court. They're only got to be swept out." A man who is a candidate for public honors, tells me he has a plan for putting this polygamy down; he would simply close the ports. A merchant, who is present, starts at this idea—"That would be against our public policy." "Then d— our public policy," exclaims the hot reformer. "All these Mormons come to us from Liverpool, and I would close the ports against them." A lady asks him how he would know them? "Easily," he cries, "I would put them on oath, and I would send back every man and woman who could not answer squarely." "That," says one of our neighbors, "would be contrary to the very first article of our Constitution." "Would it? Then d— the Constitution."

Serious men may well despond on finding such things done, such sentiments expressed. A man who loves liberty must feel that an exceptional law, a military post, and a practical suspension of trial by jury, are disastrous facts; sad evidence that, in the sphere to which they apply, the theory of popular government has broken down. America is a democratic country, where the law for one is supposed to be good law for all. One vicious principle, though introduced with pure intentions, may be fatal to the common weal. A little leaven leaveneth the lump. A system made for Utah may be carried into Arizona or Colorado. Who, indeed, can say with certainty that the system of governing by the sword instead of the popular will, may not be introduced into every State and city of the South?

Considering how much pure sentiment has been enlisted in the cause, I cannot say that the interference of judge and soldier in the Mormon homestead has been happy. Twelve years ago Congress passed the first exceptional law against polygamy; an act well meant, but faultily conceived, and still more faultily framed. It had the flaw of being designed to punish past offences. The moment it was signed the Mormons challenged a direct and public issue on its leading clauses; a challenge which the law officers of the United States in Utah found it necessary to refuse. No doubt their difficulties were very great, for the act was meant to punish a man for having married two or more women; and marriage is an act which has been carefully defined by law. Sealing is not marriage in the legal sense, and proof that a man is sealed to several women is no evidence that he is married to more than one. In order to remove this obstacle, the Mormons offered their enemies a case. One of the elders undertook to confess his marriage to more than one woman, so that legal proof of his offence would not be required. Brigham and his court of bishops were so confident that the act was contrary to the constitution, therefore null and void, that they were willing to vacate their strong position of defence, and come into the open, where the contest might be fought on the mere ground of law. They wanted the decision of a Gentile judge in Utah, so that they might carry an appeal into the Supreme Court of the United States. The local magistrates' officers decline this offer; giving as their reasons that they had to wait instructions from their legal chiefs. Instructions never came, and so the law was left a mere dead-letter on the Statute Books. I verified these facts myself in Washington. Both Chase and Seward told me, in effect, that there were doubts about the act, and Government was afraid of an appeal. To this day nothing has been done to put it to the test. A practical victory for the Mormon cause.

In lieu of this dead letter, Justice McKean, who came into the Territory with a party mandate to improve polygamy out of America, endeavored to entrap the Mormon bishops and elders in the meshes of one of their own laws. He got up a charge against Daniel Wells, George Q. Cannon, Brigham Young, and others of "lascivious cohabitation." Hempstead, United States attorney for Utah, the proper public prosecutor for the Territory, declined to help him. Hempstead was aware that no one in Washington desired to have a case of polygamy brought before the Supreme Court, and the pre-