

## Correspondence.

Visits in Pennsylvania and Ohio.

MARION, Ohio, March 6th, 1875.

Editor Deseret News:

I left Utah on the ninth of December last per rail and arrived in Pittsburgh in little less than five days. Here I parted with my brethren of the European mission, and after a brief stay in the Iron City, where I bore testimony of the truth privately, I left by way of the Alleghany Valley Road, and Sandy Lick, one of the tributaries of the Alleghany River, and wound my way (for the route was a crooked one) to Brookville, Jefferson Co., Pennsylvania, at which place I fell in with an old friend and several relatives, who received me with the utmost cordiality, administering to my necessities and making me comfortable.

At this place and vicinity, I remained until after the holidays, spending my Christmas and New Year with a beloved brother-in-law most agreeably, meantime holding several public meetings, and speaking to large and respectable congregations, who attentively listened to the truth I had to present to them.

On the 4th, after an affectionate leave of my friends of the keystone State, I arrived by way of the oil regions and Franklin, on the Jimtown and other branch roads, in Ashtabula Co., Ohio. Here also I met with an extensive circle of relatives and friends, who, with few exceptions, extended the hand of welcome and received me most heartily, treating me with many luxuries, including sleigh rides, until it was almost a vexation to hear of invitations. I delivered a course of lectures to attentive and respectable congregations, performing also untold lung labor by way of fireside chat, which I trust will not be wholly lost.

I took leave of my numerous friends of this portion of Ohio, on the 2nd of February, and arrived, by way of Berghill, and per Atlantic and Great Western railway, in Akron. There I met a dear brother, and many other relatives, as also old friends, with new acquaintances, to whom I dispensed much truth, doubtless not fully appreciated. I remained longer here than I had anticipated, in consequence of extremely cold weather, which affected me most severely.

From this point I made my way to Medina county, once a dear old home, in which I had spent many of my youthful days, but more sensitively endeared to me as having been the place where I embraced the gospel in 1841. There are many old neighbors, schoolmates and relatives, too, who in an early day were closely attached to me.

I visited in Chatham, Litchfield, Westfield and Geville, which I left, arriving at this place, February 26. Here I have made many friends, some in high circles, to whom I dispense the truth, which they partially receive, and in return load me with all honors, luxury and kindness I could reasonably expect. By dint of perseverance I secured the large and beautiful city hall, and dispensed the words of life to an intelligent and respectful congregation, which was very large, until partially thinned by an alarm of fire.

I expect to leave here in a few days by way of Lorain County, visiting several family relatives near Oberlin. Thence to Chicago, near which place I have a dear sister and brother living, whom I have not seen for upwards of thirty years, and who are anxiously awaiting my arrival. I shall soon after start for my own mountain home, more dear than ever, where I expect to arrive about the fifteenth of April.

Upon the whole I have spent a hard but rather an agreeable winter, talked with thousands of people in public and in private; and by the help of the Lord I trust have made some lasting impressions, which at some future time may manifest themselves, in causing many to wend their way to the gathering places of the Saints, there to obey the Gospel, which they have not the moral courage to do here. In fact times are so hard, and money so tight, that to do an act that would head off popular belief seems forbidding in the extreme.

I have met with a few who belong to the Saints and expect the coming season to gather to the valleys, some in fact were once there, and bitterly regret leaving.

TRUMAN LEONARD.

## Sunday School Examination.

BOUNTFUL, Davis Co.,

March 16th, 1875.

Editor Deseret News:

Sunday last, the 14th instant, was an interesting time to the people of North Canyon Ward, it being the examination of the Sabbath school children. At about 10:30 a.m. the congregation was called to order by Elder L. M. Grant, Superintendent of the West District Sunday school. After singing by the S. S. choir, and prayer by the chaplain, Thomas F. Fisher, pieces were spoken by the children, which consisted of questions and answers from the Bible and Book of Mormon, selections from the *Juvenile Instructor* and other publications of the Church. In justice to all, I must say they acquitted themselves admirably, showing with what diligence they had employed their own minds and the untiring energy and perseverance of their teachers. Permit me to here mention a few names of those that were very excellent—

Master Frank Green, "Happier Days to Come;" Wm. Ashby, "Give the Little Boys a Chance;" Byron Eldredge, "Don't Forget the Old Folks;" Miss Eliza Barnett, "New Year's Eve," and the "Gambler's Wife;" Harriet E. Jones, "Little Drops of Water;" Naomi Roberts, "Come Children, to Our Sunday School;" Flora Burgess, "Look Aloft;" Nellie Muir, "Little Women;" Laura Ellis and Olivia Johnson, "A Dialogue Between a Stranger and a Mormon Lady;" Sister Rebecca Brown's Class, "Lessons for Little Learners;" Sister Mary Woolstenhulm's Class, "Questions and Answers From the Bible;" Sister Sarah Hogan's class, "Questions and Answers from the Book of Mormon;" Israel Call's Class, "Questions and Answers from the Bible."

The singing by the Bountiful and South District S. S. choirs was very good. Brother James Weight has been very diligent and persevering, in teaching the children music, for which he is well qualified. Elder N. T. Porter, County Superintendent, addressed the meeting, urging upon teachers, superintendents and scholars the importance of increasing our subscriptions for the *Juvenile Instructor*.

Bishop Anson Call, whose interest has always been in the Sabbath school, delivered an address suitable to the occasion. He was followed, in some excellent remarks, by Counsellor John Telford. Elder Henry Rampton, the Ward superintendent, presided on this occasion. He is well respected in the position he holds, ever manifesting a kind, fatherly, and charitable disposition to all, so that his presence in Sabbath school is at all times for good.

CHARLES R. JONES.

Co-operation and Progress in Bountiful, Centerville, Farmington, Kaysville, Hooperville, West Weber and Ogden.

OGDEN, March 15, 1875.

Editor Deseret News:

The following are a few of the items of interest which I noted while traveling up through Davis and Weber Counties. Commencing with Bountiful I found the people had begun in earnest to protect themselves by their own industry under their able president, Bishop Anson Call. They have recently added to their Co-operative Institution two very useful branches of industry, the one being a boot and shoemaker's establishment, the other a tailor's, both of which have a bright prospect of being well patronized by the inhabitants of this thriving settlement. The samples of work shown to me, which had been manufactured in these establishments, by far surpass similar imported articles which are being sold in this Territory, and President Call told me that it was their intention to increase both of these branches and to turn out nothing but the very best work.

Passing on to Centerville, I found Bishop Wm. R. Smith and the people of his ward fully alive to the spirit of the times, and are uniting for the purpose of entering into the dairy business on a large scale, including the manufacture of cheese.

Farmington, the capital of Davis County, is also leading out in the leather trade, having recently erected a large and commodious tannery.

Kaysville people, ere long, under their enterprising and indefatigable

bishop, will be launching out into some other industry besides their present flour mills, which I was told were doing a good business.

Hooperville people have got their hands full just now in arranging for a better supply of water for irrigating purposes. Their bishop is expected shortly to return from his mission to the States.

West Weber people, under their active leader, Bishop John J. Hart, are employed in constructing a larger dam to enable them to command a greater supply of water from the river they have named their settlement after.

The Ogden people are patiently waiting for balmy Spring to arrive, so that the enterprises which are contemplated to take place here, may be started.

T. G.

## FLINT vs. CLINTON.

DEFENDANT'S ATTORNEYS' REQUESTS TO CHARGE.

Third District Court for the Territory of Utah.

Kate Flint,

vs.

Jeter Clinton et al.

Requests to charge on behalf of the defendants.

1. By the common law bawdy houses are common nuisances; they are such by the statutes of this Territory, and by a valid ordinance of the City of Salt Lake. Said laws and ordinances authorize the removal and suppression of such nuisances by abatement.

2. It is within the competency of the legislature to prescribe, or to authorize the Common Council of Salt Lake City to prescribe, that a house and personal property in it, occupied and used directly in the maintenance of a bawdy house, shall be forfeited or destroyed.

3. The ordinance of Salt Lake City, which has been put in evidence relating to bawdy houses, is valid.

4. A justice of the peace of Salt Lake City, in 1872, had jurisdiction to hear and determine complaints of the keeping of a bawdy house with a view to the punishment of the keeper thereof, and abatement of the nuisance; also to determine whether a house so complained of was or was not a nuisance within the meaning of said ordinance; that on determining a house so complained of to be a nuisance for being a bawdy house, such justice had jurisdiction to adjudge that property used directly in the maintenance thereof should be destroyed as a mode of abatement.

5. The proceedings against Kate Flint, before Jeter Clinton as justice of the peace, which have been put in evidence, show on the face a valid exercise of such jurisdiction under said laws and ordinance, if the jury find that said Clinton was then a justice of the peace of said Salt Lake City; that by the complaint, warrant of arrest, arrest of said Kate Flint and her presence before him by means of such arrest, said justice obtained jurisdiction of the person of said Kate, and the subject matter of said complaint, which was a jurisdiction to hear evidence and determine whether she was guilty of keeping a house of prostitution, as stated in said proceedings, and what property should be destroyed to abate the nuisance.

6. A general judgment, otherwise valid, that the nuisance of a bawdy house, kept by the accused at a designated place, be abated, and a warrant, otherwise valid, in like general terms, to execute such judgment, are a lawful judgment and warrant to authorize such acts as the jury find were reasonable and necessary to accomplish the breaking up of such illegal business at such place.

7. If the jury find that Kate Flint, mentioned in said proceedings before said justice, is the plaintiff in this action, that said justice is defendant Clinton, then said proceedings before said justice are evidence of the things done which are embraced in the issue being tried in this cause, and said defendant Clinton is entitled to a verdict in his favor. And if the jury find that any of the defendants, who actually took part in destroying her property, were marshal, deputy marshal or other officer of said City, or other person having authority officially to serve process, issued by said justice, or subject to be called by such officers to aid therein, the warrant issued by said justice to execute his judgment in said pro-

ceedings, was a full justification to them for all acts done by them, or either of them, in pursuance of the command of said warrant, so far as the jury shall find said acts reasonable and necessary to the abatement of the nuisance maintained by the plaintiff by keeping a bawdy house at the place mentioned in said warrant.

8. The marshal and police officers of Salt Lake City, and any persons assisting them therein by their request, have authority to abate public nuisances in said city, and are fully justified by the law in doing all reasonable and necessary acts to effect such abatement, and can not be held liable for any incidental injury suffered by individuals in consequence thereof. Therefore if the jury find that plaintiff in this action was keeping a bawdyhouse at the time and place when and where the injury complained of is alleged to have been committed, and that the defendants, as marshal, deputy marshal, or police officers of said city, or in aid of them by their request, destroyed the property in question, to abate the nuisance of said bawdyhouse; then the jury must treat them as not liable for the destruction of any property directly used in maintaining such nuisance, nor for any acts which the jury shall find were necessary and reasonable to accomplish the abatement of such nuisance.

9. This action can not be maintained by less proof than would be required to convict the defendants of the criminal offence mentioned in the statute referred to in the complaint; that is, the plaintiff can not recover, unless the jury are satisfied beyond a reasonable doubt that the defendants injured or destroyed her property, described in the complaint, wilfully and maliciously, and a mere preponderance of evidence is not sufficient.

10. The jury are not authorized to find the defendants or any of them guilty under the statute mentioned in the complaint, or liable by virtue thereof, if the acts severally done by them were done in good faith, in an honest belief that they were lawfully required by law and the warrant of said justice to do said acts.

11. The word "maliciously," used in the statute referred to in said complaint, makes it necessary for the plaintiff to prove that the acts complained of were done out of spite, hatred or ill-will against the owner of the property injured or destroyed.

12. Under the complaint in this action the plaintiff must prove that the injury complained of was done wilfully and maliciously, or she can not recover at all. That there is a presumption of innocence, and unless this presumption is overcome in respect to the motive of malice beyond a reasonable doubt, the jury should find for the defendants.

13. To entitle the plaintiff in any event to recover any damages, she must show by evidence what articles were destroyed or injured, and the value of the same.

PLAINTIFF'S ATTORNEYS' REQUEST TO CHARGE.

1. To make the act of destroying the plaintiff's property lawful, it must appear that the warrant under which the defendants' justify was legally issued by a proper officer, otherwise the acts of the defendants were unlawful.

2. A justice of the peace, (in 1872,) had no jurisdiction to issue a writ or warrant for the destruction or demolition of property or premises, where the value of the subject matter was more than one hundred dollars, and, if he did so, both himself and all parties engaged in the act of destruction acted unlawfully and are liable as trespassers to the persons injured.

Organic Act, ninth section. II Bouvier, section 2369.

3. The warrant under which the property was destroyed in this case by the defendants was void on its face because it was not authorized by any law or ordinance of this city. See Ordinance, Secs. 45 and 9.

4. Public officers are presumed to know the law under which they act, and if an officer executes a writ void on its face, the law will presume malice; and the same presumption attaches to all who aid or abet him in the unlawful act. 2nd Bouvier Inst., Sec. 2369.

CHARGE OF JUDGE MCKEAN TO THE JURY.

Gentleman of the Jury—In the case in which you have been sitting so many days the counsel for the respective parties have requested

me in writing to charge you on certain points of law, or which they have supposed was law. These propositions are numbered 1, 2, 3, etc., by the respective counsel. Some of the propositions are brief, some are more extended. Some of these propositions contain a few lines that are correct, while the other part of them is incorrect. Now, where a proposition is expressed in say twenty lines, if there are nineteen of these lines which I think are right and only one line that is wrong, I have to refuse the whole proposition. I must give it as a whole or deny it as a whole. If I think there is one defect in it, I must deny the whole proposition. I may perhaps, if the time admits, explain to you why I deny it as a whole, or I may simply say yes or no. Counsel in drawing up these propositions are supposed to regard them as law, and if they are in doubt about it, or if they suppose the court erred in giving or refusing any of the instructions, they save the point and reserve the right to have it revised by a higher court.

I am asked to say to you on the part of the defendants—

First.

Yes, gentleman, I say so. They are so declared to be by statute law and at common law. They are declared to be nuisances and a nuisance may be abated by process of law. More of that hereafter, however.

Second.

There is a request to state to you what it is competent for the legislature to do. It is not a request to say to you that the legislature has done so. Yes, gentlemen, it is competent for legislatures, whether they be state, territorial, or national, to do a great many things which they do not see fit to do. Hardly any legislative body has ever exercised all the power it has.

I say to that proposition as a whole, yes, it is competent for the legislature to do so, or to enact any other laws which would be for the public good. I am not asked in that proposition to say to you that it has been so. I might refuse to say that, as it involves a lecture on law. Counsel might ask me to say a thousand things to you which I might refuse for the reason that I am not trying all the cases in the world. Still, I say yes to that proposition as a whole.

Third.

No, gentlemen, I can't say that. That is a pretty voluminous ordinance, and there is much in it that is all right and valid, and some things which I do not believe are so. The counsel in this proposition have not called my attention to any particular sentence or section, but ask me to charge as to the whole ordinance. I say no, in relation to the whole ordinance.

Fourth.

Gentlemen, a justice of the peace has jurisdiction, and Jeter Clinton, as a justice of the peace, had the right to issue process upon any person, complained of, by affidavit in the proper form, for keeping a bawdy house, and investigate that question. He had a right to pass sentence upon any person convicted of that offence before him. He had a right to fine and punish such person. He had a right, within the limits of the authority vested in him, to abate such nuisance. But a justice of the peace has not all power. He has but limited jurisdiction. A justice of the peace could not order all kinds of nuisances to be abated by ordering all the property connected therewith to be destroyed. A justice of the peace is an officer of inferior jurisdiction, and must act within certain limits, and must not go beyond these limits. If he does, he is liable.

For the purpose of illustrating this, let us suppose that if some person, building a house, were to obstruct the street by piling his lumber or other material in front of his proposed building, he might go so far as to be guilty of a nuisance. Supposing, in the erection of a new building on Main Street, the party erecting it might haul his lumber and lime and other material and pile it up so as to unduly obstruct the street, so that teamsters could not arrive by, or on the sidewalk, so that pedestrians could not get along without great trouble, and perhaps danger, a Justice of the Peace might order the parties building to remove the nuisance, and might