



ELIAS SMITH...EDITOR AND PUBLISHER.

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TO THE PUBLIC.

I hereby inform the public that the *Deseret News* is not and has not been an organ of mine, for, except matter accompanied with my name, I have only occasionally, and that too some time ago, known any more of the contents of the *News* until after it is published, than I have of the copy furnished to the compositors of the *New York Ledger*.

BRIGHAM YOUNG.

G. S. L. City, Jan. 28, 1863.

MORE DETESTABLE PROCEEDINGS.

After the Executive had done everything, seemingly, that was possible for a man clothed with Federal authority—brief and doubtful—to do, having a tendency to subvert justice and to discommode and bring evil upon the people, it was hoped by some that, for a time at least, the citizens of Deseret would enjoy a season of quietness and not be harassed with official outrages as they had been almost beyond endurance for many weeks and months—a hope, however, which has not as yet been realized.

The attempt to abduct the young woman, Agnes Lowry or Agnes Pack, (for we have since learned that she was married to Mr. Ward E. Pack, of Davis county, some three weeks since) to which we called the attention of our readers in our last issue, created considerable excitement, which the efforts that were subsequently made to ascertain the whereabouts of the object, of the hellish designs of the abandoned mother and her kidnapping aids and abettors was not calculated to allay. An unusual number of soldiers were seen perambulating the streets of the city early and late during Thursday, Friday, Saturday and Sunday, some of them much the worse from the excessive drinking of whisky; however no particular disturbances occurred, and things generally assumed a quiet appearance, although there were occasional signs of an approaching storm which those accustomed to such matters could easily discover, and subsequent events have proven that the observers of the signs of the times were not mistaken in their augurings, as all they anticipated, and more too, has been exhibited since Sunday evening; for, instead of a social breeze, there has been what might not inappropriately be termed a moral hurricane, developing a degree of turpitude in certain quarters which but few, notwithstanding the startling revelations relative to human depravity which had previously been made, believed did really exist.

Sometime in the course of the day on Saturday Mrs. McMullen or McMullen, in accordance with a suggestion made to her by Judge Drake, (still residing in this city, notwithstanding his assignment to the First Judicial District nearly five months ago) filed with him a petition or complaint, containing no prayer whatever, but which set forth that her daughter, Agnes Lowry, a minor, between the age of seventeen and eighteen years, was unlawfully detained in custody and restrained of her liberty by one Ward Pack, residing at Bountiful, which, according to the venue, must be in Great Salt Lake county, and giving a garbled statement in relation to her attempt to abduct her said daughter on the 27th ult., upon which he, the said Judge, issued a writ of habeas corpus, directed to Ward Pack, commanding him to have the body of the said Agnes Lowry, by him unlawfully restrained of her liberty, as alleged, before him, the said Thomas J. Drake, forthwith to be dealt with according to law. The writ was placed in the hands of some officer, non-commissioned officer or private, at Camp

Douglas, for service; at least men in army livery were searching about the city on Sunday evening for Mr. Pack, and, as was reported, went to Davis county seeking for him, alleging that they had a writ for him, which they wished to serve. Not having been successful in their endeavors to find Mr. Pack, the writ was on Monday afternoon placed in the hands of Isaac L. Gibbs, Esq., United States Marshal, who soon found the defendant, having been more fortunate than the soldiery in that respect.

Mr. Pack came into court, in the State House, at half-past six o'clock, with Marshal Gibbs, having with him Agnes, the daughter of the complainant, and made the following return upon the writ:

"I return this writ, the within named Agnes Lowry being now before the Court, she being of lawful age and the lawful wife of the within Ward Pack."

Aurelius Miner, Esq., appeared as counsel for Mr. Pack, who in his opening remarks urged the desire of his client to have the case disposed of that evening. In reply his honor said that it was proper that the person making the complaint should have an opportunity to appear, and therefore he would adjourn for two hours and a half, and in the mean time he would write a letter and dispatch a messenger for Mrs. McMillen, whom he said was at Camp Douglas. The Marshal volunteered his services to go himself or send a deputy, provided the Judge would issue a subpoena, and to bring the witness into court by the time appointed, but it subsequently turned out that the desired witness was already in town, and was doubtless engaged "preparing" her testimony to suit the occasion.

About 9 o'clock a well-known carriage was seen to come from the direction of Camp Douglas and up to the residence of his Honor Judge Drake. The parties in the carriage were Miss Margaret Lowry and three of the gang who made the raid in Davis county. Mrs. McMillen immediately emerged from the house, stepped into the ambulance and rode up to the court room.

The Judge took his seat at half past nine, and ordered the defence to proceed with their case, whereupon Mr. Miner introduced Wilford Woodruff and Wm. W. Phelps, who both testified that they were witnesses to the celebration of the marriage of Ward E. Pack and Agnes Lowry, on or about the 18th of April, in this city. Agnes Lowry (now Agnes Pack) was also sworn and testified in the most positive terms, that she had never been restrained of her liberty; that she was 20 years of age on the 17th day of April last, the day before her marriage, also that she was the lawfully married wife of Ward E. Pack, and that as such she wished to remain with him.

This statement alone would have been sufficient so have caused any just Judge to have liberated the lady at once, but it was not so in this case.

Mrs. McMillen, her daughter Margaret, James Birch, that accommodating teamster who had twice driven the team for the complaint to Bountiful, and who was again engaged in the business on Monday evening, John T. Daring or Dearing, not a very intellectual looking gentleman for an officer to be entrusted with such an important expedition as the kidnapping of a man's wife, and a Mr. French, another of the same crowd as Daring and who stated that they looked to Daring and respected him as a military officer who was in charge of the expedition, were sworn and examined by the Judge on behalf of the plaintiff.

Mrs. McMillen's retentive powers appear to be most singularly developed. Both at the military and civil court she was fully prepared to swear that Agnes was but just turned 17 years of age, although she neither knew the month, the day of the month or the year that she was born, and when questioned as to the age of her other children, she pretended to know no more about their birth than she did of that of the inhabitants of Japan; or, in other words she had not come "prepared" to answer such questions. She was astonishingly ignorant all of a sudden, and the younger daughter had been so well trained that her memory was no better than that of her wilfully ignorant mother.

Mr. Miner endeavored to find out the rank of that respected officer Daring, but the Court would not allow him to elicit that in testimony. We have heard of fifth sergeants

at Camp Douglas, and guess that Daring holds the same number among the corporals.

The defendant's attorney then arose to make his argument, but a few moments before, the "respected" Daring had been called out of court in a hurry, and on reaching the street he found a carriage laden with a precious jewel in the shape of a lieutenant in disguise, who had instructions from "Camp" to Judge Drake to continue the case till morning and detain Agnes in custody; but being very anxious, in a great hurry, and withal, a little excited, he confused names, and, in the first place, delivered his message to the wrong person, but, on being informed of the error, Daring instantly made his way into the court room, whispered his important communication in the right ears, and thereupon Mr. Miner was informed that, although it was late, the Court would hear his argument, if he chose, but the case would not be disposed of that night. The learned gentleman very discreetly declined to say anything further for his client that night, and the Court adjourned till Tuesday morning at nine o'clock.

Instead of being present punctually at nine o'clock, as his Honor had stated he would be, he did not arrive till ten. Mr. Miner being asked if he was ready to make his argument, arose, made a few remarks and submitted the case. After a few minutes delay, Judge Drake read the following decision, which, of course, had been previously prepared, with the exception of the last clause:

The case under consideration is one of some importance. It involves the right to control and direct a person who has arrived at years of discretion.

Mrs. McMillen as the mother and only surviving parent of Agnes Lowry, a minor, claims the right to have the custody, control and care of the said Agnes.

The respondent, Ward Pack, in whose custody Agnes is found, claims to control her as being her husband. The return which he has made to the writ of habeas corpus in the following words—"I return this writ, the within named Agnes Lowry being before the court, she being of lawful age and the lawful wife of the within Ward Pack"—indicates, if it indicates anything, that the respondent claims the custody and control of Agnes Lowry by reason and by virtue of the marital rights which, it is claimed, exist between them.

In support of his claim the respondent adduces testimony to prove that on or about the 18th of April last he was married to the said Agnes in form according to the custom of the country.

I do not consider it necessary to comment at large upon the testimony offered to prove that a marriage ceremony was performed between the said Agnes and the respondent, although there is much in it about which one might cavil; and censure might rest upon it. I am inclined to consider that point established by the evidence adduced.

By the return of the respondent the age of Agnes becomes a question equally important with that of the marriage ceremony. Precisely what the respondent means by the words "lawful age" may be a matter of conjecture. Whatever it may be, the court considers it as alleging that the said Agnes is of that age when parental authority, parental control and the rights of parental custody cease. Upon this point the evidence offered by the respondent is in the opinion of the court wholly inadequate.

Without referring at all to the conflict of testimony upon this point, that offered by the respondent does not prove that the said Agnes was at the time of the alleged marriage or is now of that age when she ceases to be under the control of her parent. The reciprocal duties and obligations of parent and child are such that we should be led into a wide field, were we to attempt a discussion of even but a few of them. It must suffice here to say, in the opinion of the court, these duties and obligations, rights and privileges continue in the law until the child arrives at the age of twenty years. Where there is no statutory provision [See Revised Statutes, Chapter XV, Sec. 1.—Ed.] limiting the minority of the child to an earlier day, while the parental authority exists and is exercised with humanity, it is supreme, however contrary it may be to the inclinations of the child. Marital rights or authority obtained during the minority of the child, whether male or female, without the consent of the parent or guardian, cannot be permitted to override and displace those of the parent.

The rights of the parent may be waived. Marital obligations may be permitted to intervene during the minority of the child—oftentimes to the great advantage of the child, as well as to the joy of the parent; but to this end the consent of the parent must be obtained.

There are circumstances surrounding the marriage of the respondent to Agnes Lowry which cannot be overlooked. It is alleged that at the time of the assumed marriage to Agnes he had another wife with whom and her children, several in number, he was living and cohabiting. Proof that the respondent was, before the time of his assumed marriage to Agnes, cohabiting with a woman whom he called his wife, and introduced her as such; and that the same woman was living with

the respondent at his house after the assumed marriage to Agnes, is before the court. To this evidence the respondent has made no reply, nor offered any explanation, he having full opportunity to do either; and having omitted to make any explanation, the presumption which was created by the evidence becomes, by his silence, a conclusion, and a very painful conclusion it is; for, if the conclusion be a correct one, the respondent is guilty of a palpable and a gross violation of a law of the United States, and under circumstances of a very aggravating character—considering what has been done to bring the provisions of that law to the knowledge of this people. The Court is impressed with the belief that there is not a male inhabitant in the Territory, who has reached the age of discretion, who is not familiar with the provisions of that law.

If the status of the respondent was such at the time of the assumed marriage to Agnes Lowry, he violated the provisions of that law—then the assumed marriage to Agnes Lowry, however solemnly performed, was wholly and totally void, and the Court is by the evidence impelled to this opinion.

Therefore the decision of the Court is, that the custody and control of the said Agnes Lowry belong to her mother, Agnes P. McMillen, and not to the respondent, Ward Pack, and that the said Agnes Lowry be placed in the custody of her mother, Agnes P. McMillen, the complainant, and the Marshal is hereby ordered to carry the decision of the Court into execution.

The Marshal was ordered to see the decision of the Court carried out, which he proceeded to do by informing Mrs. McMillen that she could take her daughter into her custody, and by informing the daughter that she could now go with her mother. Agnes answered, "I will die right here before I will go with her."

At this juncture, her husband walked up like a brave, and led her out of the courtroom. He then handed her over to two ladies, who took her off in triumph, surrounded by many friends, and saluted by the deafening cheers of the hundreds who had been witnessing the proceedings with the most intense interest.

We have thus, in as brief a manner as possible, given a history of the habeas corpus proceedings, which made some of the boys feel a little feverish, and they might have been somewhat uncontrollable in the event that any violence had been attempted on the part of the friends of the mother, in order to secure the custody of the daughter. The nature and intent of the proceedings from first to last were apparent to all who witnessed them, and we do not propose to make any comments in reference to them at this time, further than to state that we have seen, within the last thirty years, many jug-handled arrangements in the administration of what was called law and justice, and witnessed the sayings and doings of many corrupt, wicked and unjust judges, but we do not remember having seen any, (his caliber taken into consideration) who in those respects could be considered the inferior of this supernumerary representative of "Federal power."

MISCELLANEOUS NEWS ITEMS.

It is reported that a Union Association, at New Orleans has adopted a series of resolutions, and a petition to Congress, asking for the people leave to hold a convention, for the purpose of taking measures for the formation of a State Government.

General McClellan's Staff, it is said, has at last been disposed of, by an order directing that those officers belonging to it, holding commissions in the regular army, shall be assigned to duty in their respective corps, and that the Volunteer officers be mustered out of service.

A terrible hurricane swept over Grundy County, Ills., on the 18th of April, which prostrated and demolished every thing wherever it went. The loss of life reported was not great, but the amount of property destroyed was immense.

The Sioux prisoners who were condemned to death last fall, but not executed, in consequence of the non-approval of the sentence of the Court by the President, have been sent to Davenport, Iowa, where they will be imprisoned at hard labor during the continuance of the Indian war.

General Fremont has recommended the colonization of the freed negroes of the South, on the Pacific Railroad lands, for the purpose of constructing the road as a matter of policy and economy under existing circumstances.

The steamer *Anglo Saxon*, from Liverpool, was wrecked off Cape Race, on the 27th ult., and over three hundred and fifty persons—crew and passengers—were drowned.