

Tuesday, August 19, 1879.

JUDICIAL FALSEHOOD NUMBER SEVEN.

BREKMAN in his unparalleled attack on the Executors accuses them of receiving commissions to which they were not entitled, specifying some items and referring to others which he says they took out of the estate "without authority under the will," and further states:

"They are entitled to commissions, if on anything, upon the money which passes through their hands, but the will nowhere says that they shall have commissions on the property conveyed to devisees."

In connection with this is the assertion that they paid out money "for work which they should have done themselves or deducted the charge out of their commissions."

Let us briefly investigate these charges. We turn to the Will and find this provision in regard to the fees of the Executors:

"I authorize them to take as their joint commission three per cent. on principal passing through their hands, to be charged but not to be made no charge as on a rent for any homestead occupied by any legatee."

Is there anything here which limits the commission of the Executors to a percentage on actual cash passing through their hands? Not a word. Would it have been said to make such a limit? Certainly not; for the handling and distribution of the real estate property incurred far more trouble, labor, skill and responsibility than the disposition of the personal property. And what is the rule in such matters? Let us refer to the law on the estates of decedents:

"When no compensation shall have been provided by will, or the executor shall renounce all claim thereto, he shall be allowed commissions upon the amount of the whole estate accounted for by him as follows: For the first thousand dollars at the rate of seven per cent. for all above that sum and not exceeding ten thousand dollars, at the rate of five per cent. for all above that sum and not exceeding twenty thousand dollars, at the rate of four per cent. for all above that sum and not exceeding thirty thousand dollars, and the same commission shall be allowed to administrators. In all cases such further allowance may be made as the probate judge may deem just, and the probate judge shall be allowed to administer. (Compiled Laws of Utah, section 994.)"

It will be perceived that the law allows a larger rate of per cent. than is specified in the will, in cases wherein the will does not mention the amount, and this is not upon the money handled but upon "the whole estate accounted for." Thus, the unjust judge had nothing in the law to guide him in making such a statement as the above, and the will does not bear him out in the least. We therefore class his assertion with the others we have exposed, and denounce it as falsehood number seven.

Now let us examine his statement about the payment of expenses out of the commission allowed to the Executors. The same law from which we have quoted says in regard to an executor or administrator:

"He shall be allowed all necessary expenses in the care, management and settlement of the estate, and for his services such fees as the court may deem just," etc. (Comp. Laws, sec. 993.)

It will be seen by this that fees or commissions, in compensation for services, are separate and apart from the expenses entailed in the management and distribution of an estate, as common sense as well as custom and legal enactment make plain to the most ordinary mind.

But the man who sat on the bench and insulted the Executors by his false accusations, did not stop to consult common sense, the evidence in Court or the direct provisions of the will. He had a chance to go there leading "Mormons," and with his usual bovine wrath, he butted at them savagely, without regard to truth, honor or decency. We have re-produced and refuted seven of the principal falsehoods in his Decision, and on them he is held up to the contempt and despising of all civilized humanity.

THE ELDERS IN NORTH CAROLINA.

By letter from Elder Joseph Hyrum Parry to Elder John Morgan, dated August 2nd, we learn that the brethren who were threatened by the mob in the North Carolina, at that date, at North Carolina, Cherokee County about 15 miles from Brantown, where the Saints were whipped and clubbed by the "Christian" mobocracy, as related in last evening's News.

The Elders, whose names are as follows, were invited to preach last Sunday at the Court House at Murphy, the county seat of the county in which the mobbing took place, so it is presumed that the leading citizens are opposed to the unlawful proceedings against them, viz., Elders Joseph H. Parry, Chas. W. Hulse, Thomas Lloyd, Thomas S. Higgins and Edie Edleson. They were all in good health and full of confidence in the protection and overruling hand of the Almighty.

Some of the sheep of Israel, who will yet be gathered into the fold, are in that neighborhood or the sectarian wolves would not be howling so fiercely against the shepherds. We expect to hear of great success in the labors of our missionaries, who should have the support of the prayers of the faithful Saints.

TAX ON CO-OP. ORDERS.

THE Collector of Internal Revenue has received instructions from Washington, to make collection of the amounts assessed against certain firms in this Territory, as tax on orders issued by them for the facilitation of business. Z. C. M. I. and the Brigham City Co-opera-

tive Institution were largely interested in this matter, and they resisted payment of the tax and fine assessed and have carried the matter up to the Courts. The evident intention of the law is to tax notes used by private firms or corporations and in circulation as money. The orders used by our merchants and others do not rightfully come under this description, and in all probability the highest court of the country will so decide. The instructions now received, come from the Internal Revenue Department, and the amounts demanded should be paid under protest. This will certainly not "settle any further controversy" on this matter, for the appeal to the Supreme Court has yet to be heard, and it will be conducted by men of the highest legal ability and reputation.

All who pay anything on this account should do so in the manner we have designated, although we are perfectly aware that money once paid to a representative of the "best government under the sun" is extremely difficult of redemption, no matter what justice and judgment may decide. Still it is only prudent to reserve all rights and claims in the premises, for the case is pretty clearly in favor of those who are called upon to pay up before it is decided.

THE "ARGONAUT."

We have received a specimen copy of the Argonaut, a weekly of six pages, published at San Francisco. It is printed on tinted paper, with double-width columns, and makes a handsome appearance. Its leading articles exhibit taste, good mean order, and the whole paper is conducted with ability. From a back number of the Argonaut, we clip the following, which serves to show its views on the "Mormon" question:

"This by way of illustration; it is right to explain that I have a sincere respect for the Mormons. Surviving one of the most hateful and sneaking aggressions that ever disgraced the generally straight-forward and forthright course of religious persecution—an aggression that lacked alike the talent, power, authority and the lustre of success—they dragged the feeble remnant of their dispirited body into the horrible wilderness, where a thousand miles beyond the reach of humanity's most extravagant claims, they made a garden of abundance. Their abodes were the edible beast and the succulent vegetable, and to the feast came famine from over the seas to line his ribs with leaves of firm white fallow, box-leafed and collared. Following his dusty toes thither, Nakedness was fearfully and wonderfully clad, yet warmly withal. There the stomach of intemperance paled its intellectual fire, and immorality was fain to hide his diminished head. In short, Mormonism proved the greatest practical benefaction of the century. If it ruined any souls it had the right, for the starving carcasses of its converts had none until souls were created under their scabrous ribs by Mormon meat and herbs. And now we wait to rout out the Mormons again, specify arming itself for the purpose with a legion's exhausted mandates copied from the archives of Navaho and telegraphed up to Ogden."

"When the Saints, a pauper few, we the Gentiles once went through, 'All for Jesus' said the many—'See, there was sought for anyone, then, that offered us a way, 'All for Jesus' still we cry. But again when we have striven, And said we had given, We shall find when all our pains To count over shall please us, Not a Saint alive remains. Not a cent has come to us."

THE "COSMOPOLITE."

We have received the first number of the Cosmopolite. Unless its style of expression is to be improved we hope we shall receive its last. It is published in Sioux City, Iowa, has a pictorial heading, a pretentious appearance, sixteen pages, and very wide columns. The editor has something to say on the "Mormon" question, but it is rather difficult to understand what he means. He remarks:

"Our opinion morally and lawfully speaking in this is that the culprit Reynolds should not be allowed to remain at his own home to be fed as a bird, as we, even as a saint, whom the Almighty has been pleased to choose as a fit subject to convey to his persecuted (?) associates his correctness of their faith. Whether it be God or otherwise, the highest tribunal of the land has decreed against him, and the penalty should be paid. If their cause be right (3) his history repeating itself, there is a chance for reformation."

The editor's mind seems to be in a muddle, a condition not unusual to press writers when attempting a solution of the "Mormon problem." But the same sort of phraseology as before the above, runs through the whole editorial department of the paper. Here is the first paragraph:

"And we have christened it The Cosmopolite. To-day with newspapers in all parts of the world, and of all languages, the addition of another in charge of a novice, need not occasion much comment or cause for apparent loss of patronage; to others, being under the generalship of veteran journalists, with increasing might, challenges are to combat them in the ranks of newspapers. To attempt a place there is not a double contest, and having in our quite extended travels found that the press is really of a local nature, and also learning that there are over nine thousand papers in the United States, and but few of them are known as independent, our conclusions have led us to this far to attempt, the ending we know not of."

The ending may be foreseen without a prophetic eye; such a literary abortion can only take a few short gasps and die. Here is one more of his sentences, from an article on "Ingersoll's" funeral oration:

"Because of him acting the part of a hopeful future for a dearly beloved brother, to wish for him all that instinctive desire could portend, he is forced to battle the insidious threats of his becoming convinced that his practices are not the thing to do by, even if worthy of respect while living."

After that, who would want to wade through the Cosmopolite in search of an idea? Please don't send us the second number.

Where is it?—Where and by whom is the annual Cache Valley excursion? People are beginning to enquire for it.

BY TELEGRAPH.

NEW YORK, 12.—The Times, which has been silent on the whole matter until this morning, publishes some details from special correspondents yesterday. The story of the scene at the house is substantially reproduced, and the following version is given of the scene at the restaurant: When he reached Billington's, Conkling according to the story, brought his horse and waited on him went inside the door and stood there for a few minutes. While he stood there, Sprague and jumped into the open wagon and was driving furiously down the road over which Conkling had just passed. A tradesman who saw him as he turned into the street, leading to Billington's, said he looked very excited and was driving furiously and carelessly. He drove up to the front of the case and Conkling at that time stood on the covered stoop in front of it. As he reined up according to one account he abouted, in a threatening manner at Conkling and talked and gesticulated excitedly. Then Conkling crossed the street to the opposite corner, as if to go away. Sprague quickly followed, wheeling his horse suddenly and jumping out by Conkling's side. Mr. Wood, superintendent of the cafe, was doing in an upper room of the building at the time Sprague drove up. He was aroused by the sound of voices and getting up looked out and listened. He heard Sprague say, "You—I want you to get out of this place. If you don't go, I'll shoot you. You don't cross my path again. If you do, I want you to be armed, for I'll shoot you as sure as I meet you." To this Conkling made some reply, and then Sprague was heard to respond, "No, I'll accept no apology. I want you to get out of this place instantly." Sprague then drove away and Conkling, who had started off toward the railroad depot, returned to Billington's and sat down just alluded to was very much excited by several persons, and each of the relations gives a slightly different version of the encounter, although all agree that Sprague was very much excited. The boy who was waiting upon the guests of the cafe says that Conkling was not excited, and that he ordered and ate a lunch of milk and crackers. After a while, a team that was said to have come from Sprague's, drove up, and a lady of medium height, rather stout and very well dressed, conversed with Conkling. She stood on the porch. This carriage came back a second time to give the occupant an opportunity to talk with Conkling, who had been told by several persons, and each of the relations gives a slightly different version of the encounter, although all agree that Sprague was very much excited. 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