GEN. BRISBIN ON THE MORMON QUESTION.

GENERAL BRISBIN, of the United States army, in a communication to the Omaha *Herald* writes as follows on the "Mormon" question:

"Inasmuch as polygamy was originally no part of the Mormon creed, and was adopted merely to rapidly increase the Church and to settle up the country, now that there is no longer any necessity for rapidly increasing the Church or settling up the country, I think if I were John Taylor I would drop polygamy out of the Church. That he has the power to do so there is no doubt, and it would be better for all if he were to do so. Without polygamy nobody could object to his Church, and monogamy does not interfere with the faith of a good Mormon. Let John Taylor think seriously of this, not as the advice of an enemy, but as one who wishes well to him and his people, who has been always kindly received and hospitably entertained by the Mormons, and who would do them a service if he could. The plague spot of polygamy so offensive to other churches, is not Mormonism as taught by the founders of the Church of Jesus Christ of Latter-day Saints, and the time has come to return to the faith as taught by the Prophet Joseph Smith. Not so much policy as the voice of God himself commands this, for God hates war and bloodshed, and war and bloodshed are sure to come if polygamy be continued much longer in this country."

There are several fallacies in the foregoing, and as they are of common acceptation, although there is nothing new in the paragraph, we will give them some notice.

Polygamy was *not* "adopted merely to rapidly increase the Church and to settle up the country." Plural marriage was adopted because God revealed it to Joseph Smith and commanded His servants holding the higher priesthood to enter into its practice. It was received and practised before the Latter-day Saints came to Utah, and therefore was not "adopted to settle up the country." It is a question whether it has the effects described by General Brisbin, as so many people are prejudiced against it without investigation that the "rapid increase" supposed to be its object does not appear to be achieved. But supposing that this may be among its results, it is certain that it was not adopted for any such reason. It could only have been incorporated into the faith of the Latter-day Saints through the revelation and commandment of God; nothing short of this would have induced either the leaders or the body of the Church to accept it in faith and practice.

The same necessity for its adoption as a part of our creed exists to-day as at the time when Joseph Smith received it from God and made it known to his brethren. If it was necessary then, it is necessary now. If it was true then it is true now. If it is wrong now it was wrong then. Nothing but a revelation from God commanding His people not to proceed further in this direction would have the effect of eliminating it from the "Mormon" creed. And the Latter-day Saints would require just as powerful an individual assurance and testimony that God had so commanded, before they would give credit to a purported revelation to that effect, as they have received that the revelation on which they base their practice of the principle is of divine origin.

General Brisbin is *not* John Taylor, and therefore he is not in a position to decide intelligently as to what he would do if he were John Taylor. His supposition that he could in that case "drop polygamy out of the Church," is another great fallacy. He says "there is not a doubt" of it. There may not be in his mind. But then he does not understand the situation. He does not understand anything about it. He thinks he does, as many equally uninformed persons do, and this is why he so cheerfully and chippingly suggests the "dropping out" of something that has become interwoven with the lives, and families, and social system, and institutions of many thousands of people through the acts and consequences of over forty years.

By "dropping out" he means perhaps the cessation of plural marriages. This would not be the dropping out of the practice by any means, because there are ties and connections and relationships that have been formed during the period we have named, that would not and could not be "dropped out" if no man were to take a plural wife from the present date. But we will say, for the information of persons holding the views expressed by General Brisbin, that it is not in the power of any man to "drop out" of this Church any principle that has become an integral part of its creed. God alone has the power to make any radical changes in the constitution and ceremonial of the Church.

But it is often jauntily suggested that a revelation had better be given to accommodate the views of Christendom on this subject. Do the wise (?) people who offer this suggestion ever consider what rubbish it is? In one point of view it is the hight of absurdity. In another it is a gross insult. From the first standpoint, it is nonsense to think that God is to be influenced by the opinions of any people, or, to use a popular vulgarism, to "go back on Himself," and deny what He has revealed, because a lot of discordant sects and unbelieving scoffers do not like it. From the other, it is insulting to the Latter-day Saints to insinuate that they make revelations to order, as the popular preachers do sermons, or that inspiration comes by the will of man and is subject to his desires and caprices. Such suggestions are the extreme of folly, and show that the authors know nothing of the subject on which they think to air their self-sufficiency.

"Without polygamy nobody could object to his Church" says the General This is still another great fallacy. Polygamy is but a convenient cry against the "Mormons." The real opponents of this Church do not care a rap about polygamy. They frequently confess it. They would be just as much opposed to "Mormonism" if polygamy could be "dropped out" of it as they are now. The proof of this is found in the indisputable fact that "Mormonism" was fought just as bitterly before plural marriage became a part of it as it is to-day. "Mormonism" as taught by the founders of the Church," to quote the General's words, was more bitterly persecuted when only one wife was permitted to any of its members than it has ever been since the adoption of celestial marriage. The mobbings and burnings and murderings in Missouri, the outrages and pillages in Illinois were not even pretended to be in consequence of polygamy. General Brisbin assumes that Joseph Smith did not teach this plural wife doctrine. If that is true, how does he account for the slaughter of Joseph and Hyrum Smith on his hypothesis that "without polygamy nobody could object to this Church?" He is mistaken as to the fact; he is equally mistaken in his theory. This Church has been brought into greater prominence by the attacks of its adversaries since its adoption of plural marriage, but has not suffered a tithe of the real afflictions and outrages upon person and property which were endured by its members before that adoption. History establishes this beyond contradiction; and then what becomes of the notion entertained by many p e as well as General Brisbin?

And now as to his conclusion. How did he find out that "God himself commands" the Latter-day Saints to disregard what He has revealed to them? He only supposes this. On what grounds? Because "God hates war and bloodshed," and these are "sure to come if polygamy be continued." Very poor reasoning indeed. "War and bloodshed" came upon the early Christians because they clung to an unpopular doctrine. God hated the wickedness of their persecutors no doubt. But He never commanded His Saints to change their creed and practice to suit their murderers. And it is not supposed that He will do so in the present case. And then the "war and bloodshed" that the General foreshadows are either a threat or a prophecy. We do not believe the General is as much of a success in the role of a prophet as of a warrior, and to tell the truth, have no confidence in his prediction. And if his words are a threat, they will not have as much effect as the blowing of the wind upon Latter-day Saints who trust in God and have full faith in his revelations to the Church.

We believe that both the writer of the letter and the paper that printed it intend well in the suggestions made, but if they will examine this matter a little more closely and consistently they will, we think, perceive with certainty that it is useless either to propose a bogus revelation to the Latter-day Saints, or to threaten or predict any kind of troubles as a consequence of their faithful adherence to a doctrine which they deem of divine origin.

MORE ANTI-"MORMON" BIGOTRY.

A SHORT time since we published a partial account of the expulsion of Elders King and Olson from Spring Lake, Michigan. We are enabled to present the following further details of the persecutive proceedings:

LA GRANGE, Michigan,
September 23d, 1884.

Elder A. M. Musser:

I enclose the resolutions purporting to cover the hostile demonstrations that occurred some time ago at Spring Lake in purging Elder King and myself from that place, adopted by an assembly met to consider our case. The evening prior to departing from the town a noisy gang, among whom were the Rev. Jolderma, Rev. F. L. Thompson and others of the principal church officers, came in search of us. We met them at the gate about dark. Their abuse and detraction that they quickly began to fling caused us to retire to the house. They had engaged a few drunken bullies to assist them. These attempted an entrance into the house, boxing a little girl who stood in the doorway. Knowing the hot anger foaming within them we retreated from the back door and secluded ourselves till the excitement subsided. This bloodthirsty crowd trailed the streets till a late hour, firing pistols and uttering hideous cries. The following morning we took leave of the place. We learned afterwards that the excitement fired up the next day and inquiries were made for us. The Rev. Jolderma has circulated letters instructing the ministers in other localities to continue the crusade. One came to our headquarters. This has been disputed, yet it is given as a correct report to us.

EDMUND OLSON.

ORIGINAL DOCUMENT.

SPRING LAKE, Mich.,
August 25, 1884.

Resolved, That this meeting looks upon polygamy as it exists in Utah as a blushing shame to the men and a burning insult to the women of the United States; that, considering our advanced state of civilization, we look upon it as a stain upon the intelligence and morals of our people that should at once be rubbed out.

Resolved, That we believe it is in the power of the government to stop it. If not, that Congress should at once enact such laws as will render it impossible for so vile a practice to exist in our country.

Resolved, That a committee of four, consisting of Warren Gee, T. Stodt, F. L. Thompson and Rev. Jolderma be appointed to convey to these Mormon missionaries the expression of the extreme indignation of this assembly at their presence and labor among us.

Resolved, That the above committee be authorized to earnestly request these so-called Mormon missionaries to leave our peaceful village within two days from this date.

(Signed) M. WALSH, President,
F. L. THOMPSON, Secy.

JUDGE ZANE BLUNDERS AGAIN.

THE case of Rudger Clawson, who was indicted by the grand jury of the Third Jbdiciai District in April last for polygamy, under the Edmunds law, is now before the Court. The attorney for defendant, F. S. Richards, Esq., moved yesterday to quash the indictment on the ground that the grand jury which found the indictment was illegal. A brief report of his able argument in support of the motion will be found in another column. The prosecution depended chiefly for answer to this argument on a decision of a California Court, to the effect that no challenges could be interposed to a grand jury except such as are named in the statute providing for such challenges. That as the Utah law is taken from the California code, it is therefore subject to the same limitations and the ruling of that Court applies here.

But, as was shown by Mr. Richards, the situation is different in Utah from that in California. The Legislature of Utah stands in a different position to that of a State Legislature. Congress assumes to legislate for the Territories, and in addition to the Utah law in relation to juries, there is the Poland law enacted by Congress. Now over anything that is regulated by the Poland law, the Utah statutes cannot prevail either by excess or limitation. The Congressional law is paramount, the local law subordinate. Therefore challenges to a grand jury may be interposed if it has not been impanelled as the Congressional law requires, even if the Utah statute providing for and limiting such challenges does not cover the ground of the Poland law.

For instance, the law of Congress requires two hundred names to be placed in the box, half of which shall be selected by the Probate Judge and the other half by the Clerk of the District Court, and the Utah statute provides that:

"A challenge to the panel may be interposed for one or more of the following causes only: 1. That the requisite number of ballots was not drawn from the jury box; 2. The notice of the drawing of the grand jury was not given in the manner provided by law; 3. That the drawing was not had in presence of the officers designated by law." (Act on Criminal Procedure, sec. 119, Laws of Utah, 1878.)

But suppose the names put in the box were not selected as required by the Poland law. Would not the jury made up from the persons thus unlawfully selected be an illegal jury? And would the limitation of the local law to the three causes of challenge given above preclude a challenge against the unlawful selection? Clearly not, since the statute providing for such selection is a law of the United States, while the statute limiting challenges so as not to cover the ground is but a law of this Territory. A jury, then, may be challenged if not drawn and impanneled according to a law of the United States, even though the ground of challenge is not included in the local law in relation to challenges. If not, there is no remedy for juries selected by fraud. But there is a remedy, and that is found in Sec. 185 of the Criminal Procedure Act, which provides that the indictment must be set aside, upon motion of the defendant, among other reasons, "Where it is not found, indorsed and presented as prescribed in this Act;" and "this Act" requires it to be found by a grand jury of "fifteen eligible male citizens of the United States, *selected, summoned and impanelled according to law*. If it is not selected according to law it is illegal, and "must be set aside by the Court" on motion of defendant.

The ruling of the Court on the motion to quash the indictment will be found in full in another part of this paper. It does not touch on the question explained above; for some reason the Court avoided this issue. We will draw attention, however, to some points in His Honor's Opinion which we consider fatal defects in his argument. In quoting from the Edmunds law relating to challenges to jurors, Judge Zane in one place omits a very important clause. The wording of the law, as may be seen from the section which he gives in full in another place, is as follows: "In any prosecution for bigamy, polygamy or unlawful cohabitation *under any statute of the United States*, it shall be a lawful cause of challenge, etc." The Judge claims that this covers a grand jury as well as a trial jury. But in that portion of his argument on this point he conveniently leaves out of his quotation the words we give in italics. A grand jury acts entirely under the laws of the Territory. It is *selected* and *drawn* under a law of Congress, but when impanneled it is governed entirely by the local statutes. Therefore the clause "under the laws of the United States" had to be omitted from the Judge's argument or it would have spoiled all his reasoning. It is only in a "prosecution" under the "laws of the United States" that a juror may be challenged as to his belief in bigamy, polygamy or unlawful cohabitation; and supposing that a prosecution commences with the proceedings of a grand jury, as the judge contends, seeing that they act entirely under the local law and not the laws of Congress, his argument falls to the ground.

The question as to when a prosecution commences is very important. In order to make the section of the Edmunds law providing for challenges in the impanneling of a jury, cover the ground of a grand jury as well as a trial jury, His Honor strains a little the meaning of the term "prosecution." It is generally understood that there can be no prosecution in a District Court until an indictment is found. The beginning of a prosecution is the indictment. And the proof of this lies in the fact that unless a "true bill" is found no one is proceeded against. No witnesses for the defense appear before the grand jury; that body simply inquires into allegations to see if there is sufficient ground for a prosecution. If there is not, there is no presentment and consequently no prosecution. The prosecution therefore commences with the indictment.

His Honor says the prosecution begins when the grand jury subpœnas witnesses and commences to examine them. As we have shown, this is not in the nature of a prosecution, but granting his position, where does it place him in the argument? It lays him flat on the floor. For the point in dispute is the right to challenge a juror on his belief in polygamy, etc. This is only lawful in a prosecution for bigamy, polygamy or unlawful cohabitation, and the Judge says the prosecution is commenced when the grand jury subpœnas witnesses; there force the challenging of a grand juror before the grand jury is impaneled, is before the investigation commences, and before there is any prosecution, and consequently by his own argument is unlawful. There was never a more complete case of giving away an argument than this.

Again. His Honor says the object of the law was "to provide an impartial jury by which to try polygamy cases." Correct. And for this purpose it was so arranged under the Poland law that juries should be composed equally of "Mormons" and non-"Mormons." But is a jury anything like impartial when it is made up entirely of persons prejudiced from the beginning against the accused? What kind of impartiality is there in a process that packs a grand jury with persons embittered against a class of citizens, for the purpose of finding indictments against them on frivolous pretences, and then packs a trial jury with the enemies of those indicted, in order to convict them on slender evidence. Is it not a fact, known to the Court as well as to the public, that a bitter prejudice exists against the "Mormons" among the class from which this packing system selects both grand and petit jurors to indict and try them? To secure an "impartial jury," then, His Honor sustains a method by which the enemies of the accused shall say whether he is to be prosecuted or not, and by which his enemies shall also try him, if indicted. A new way to provide an "impartial jury."

It should be observed that Judge Zane's argument in regard to a juror's belief concerning murder, etc., applies to trial juries only. Who ever heard of a grand juror being challenged as to his belief in reference to such crimes? There is always a difference made between grand jurors and petit jurors in the matter of challenges, and that which may be proper for the latter may be improper for the former. Again. It is mere presumption to say that a juror who believes that polygamy is a command of God will not indict one who practices polygamy and violates the law of the land. Belief in the rightfulness of a principle is one thing, violating an oath to judge according to evidence is another thing. One does not pre-suppose the other. A "Mormon" may think it right before God for a man, under some circumstances, to have more than one wife at the same time, and yet, being sworn to find according to a human law and the evidence, he would be bound before God and man to bring an indictment or find a verdict according to his oath. If the Judge cannot see this we are sorry for his mental blindness; if he does see it, we are sorry for his argument, or rather assumption.

His Honor carefully avoids a very important objection raised by Mr. Richards in regard to impartiality in the grand jury which indicted Rudger Clawson. It was shown that while "Mormon" jurors were challenged as to their belief in the rightfulness of certain things "in the marriage relation" and rejected on their answers, non-"Mormon" jurors were not questioned as to their belief in or practice of cohabitation with more than one woman outside of "the marriage relation." This was an individious distinction not at all likely to aid in procuring an "impartial jury." Why did not the Judge pass on that question? The Prosecuting Attorney claimed that he had the right to put questions to some grand jurors and to refrain from putting them to others, just as he chose. In other words, to pick out just such persons as he wanted to indict "Mormons" and exclude all others. Is this what Judge Zane would call "providing for an impartial grand jury?"

This ruling will be passed upon by a higher court. It is to be hoped that it that it will receive due consideration and that if the decision should be sustaned, some more cogent reasons wil be found for its support than those offered by Judge Zane, which, as we have pointed out, are exceedingly weak and in some instances prove the reverse of his conclusion. His Honor may improve on acquaintance, but the two important opinions he has delivered on the jury question do not comport with the reputation for legal ability which preceded his advent to Utah.

DEPARTMENT OF DEAF MUTES, UNIVERSITY OF DESERET.

SALT LAKE CITY, Utah,
September, 1884.

At the last session of the Utah Legislature, an appropriation of $2,000 annually for two years was made to the University of Deseret to assist in establishing, in connection with the Institution, a department for the instruction of deaf mutes.

The officers of the University have been diligent in making every preparation possible for the reception and accommodation of this class of students, and have secured from the East talent specially adapted for their instruction; so the Department is now ready to admit as students such deaf mutes as need instruction and are otherwise fitted to enter the school.

The United States census of 1880 reports 118 deaf mutes in our Territory. It is quite certain that but few of the parents or guardians of these deaf and dumb persons are able to send them out of the Territory to be educated. That they should be educated, for reasons beyond any that apply in support of the education of those who are in full possession of all their senses, few will deny; yet, until the present time, no provision has been made in this Territory for their instruction, while thousands of dollars annually have been expended for the education of those who, having all their senses, are better able to battle successfully with life without it, than they.

As education abroad is not accessible to the many, it should be well known throughout the Territory that a school for the deaf and dumb has been established at home, in which they may receive instruction at the lowest possible cost. The object of this letter is to announce this fact to those who may be interested in this humane effort. It will be sent not only to parents and guardians of deaf mutes wherever known, but to others who may aid us by securing us the names and addresses of persons in their vicinity who have in charge, as parents or guardians, any of this unfortunate class. It will also be sent to persons who, though having no responsibilites of this kind themselves, may, through a benevolent desire to help the helpless, use an influence with some who do not realize the advantages of education to their deaf children or wards, to induce them to provide these dependents with at least the elements of an education that seems so necessary to their well-being.

In the school now established in connection with the University of Deseret, in Salt Lake City, will be taught the best available method of ready communication, together with reading, writing, spelling, arithmetic, grammar, geography, and also higher branches as they may be required. Besides this, as soon as practicable, a common boarding place, or home for all our deaf mute pupils will be established, where they will be constantly associated with their teachers and in communication with them, so that they may be trained to proper demeanor and social politeness as well as in scholastic studies. They will thus, also, be under the constant surveillance of their teachers, so that their parents or guardians may feel assured of their safety and protection.

Arrangements for board and lodging will be made for those who desire it.

The rate of tuition is ten dollars per quarter. In cases, however, in which parents or guardians are not able to pay even this amount, their children or wards will be admitted to the school free of charge for tuition, under the beneficiary arrangement of the University, provided evidence is given that the applicants are poor and truly worthy.

Pupils who contemplate joining the class should make preparations to do so at once, that they may have the benefit of the early lessons in the course of instruction.

Further information relative to the school may be obtained by addressing the undersigned.

Yours truly,
JOHN R. PARK,
President University of Deseret.