

# DESERET NEWS:

## WEEKLY.

TRUTH AND LIBERTY:

WEDNESDAY, - FEB. 18, 1880.

### UNJUST, UNCONSTITUTIONAL AND UNRIGHTEOUS.

THE dismissal of the case against several gentlemen well known in this community, particulars of which will be found in our local columns, was, under the circumstances, most unjust and unfair towards the accused. Constitutionally they were entitled to a speedy and impartial trial. This has been denied them. They have not only been refused a speedy trial, but have been deprived of any trial at all. The wrong thus inflicted upon them is made more apparent by the opposite course pursued, only a few days ago, in a similar case—the Potter affair, when a trial was had and a verdict of acquittal rendered.

For many years there have been various attempts made to fasten the crime of murder upon some prominent "Mormon," often without the least shadow of foundation for the charge. The case just dismissed is one of them. More than eleven years ago Dr. Robinson was lured from his home in the night, on the pretense that he was wanted for some sick person, and was murdered in the street. It suited the purpose of certain individuals to attribute the crime to "Mormon" influence, or the hypothesis that the Doctor had made himself obnoxious to the city authorities by an attempt to jump some of their land in the neighborhood of the Hot Springs. This was the only reason—if such it can be called—that was offered for such a conclusion.

When a hne-and-cry is raised against an unpopular person or society, villains without conscience are not wanting to aid in the uproar or lend themselves as willing tools to the instigators of the attack. So the accusers of the "Mormon" people soon found worthless informers enough to suit their purpose and say sufficient to induce grand juries to frame indictments, under strong pressure from Prosecuting Attorneys and mission Judges. Several indictments have been found under just such influence in this Territory without any substantial evidence against the accused. This has been demonstrated when the parties have been brought to trial. Of suspicion there was plenty; of desire on the part of the prosecution to convict there was an abundance; of animus against the defendants by witnesses anxious to condemn there was sufficient to disgust all fair beholders; but of evidence not a scrap, nor a shred, nor a shadow.

Yet the charges have been held over the heads of innocent men for years and they have been put to expense and trouble, and subjected to the suspense and anxiety consequent upon such charges, with the suspicion of persons not informed as to the facts as an additional source of annoyance and pain. In many of these cases a trial has proven to the satisfaction of all unprejudiced people that they were founded in malice and spleen, and supported by bigotry and a desire to defame honest men because they belonged to an unpopular Church and creed.

The Robinson case is one of this class. We claim that the indictments found against the accused were based upon insubstantial and worthless premises; that the prosecution would not proceed to trial because there was no earthly chance of conviction; and that they would not permit a trial because an acquittal would be certain and a number of honorable "Mormons" would be set free from a shameful burden imposed upon them without sense or reason.

The only plea offered in this case against giving the accused a trial was the bare possibility that some evidence might hereafter be found against them. It was admitted that no evidence was at hand. After all the hubbub, hunting, detective work and alleged "confessions and disclosures," through a period of many years, not a jot or tittle of real evidence against the defendants could be obtained. Yet, instead of allowing them to come into court and prove their innocence, the case is dismissed, no trial is permitted,

their claim to be heard in their own defense is denied, and they are left open to the possibility of being subjected again to the same ignominy, expense and anxiety as they have suffered without just cause during the past two years. If there is any fairness, reason or justification in this we must confess that we fail to see it. Nor do we believe for a moment that if the accused had not been known as members of the "Mormon" Church such a course would have been pursued against them, so contrary to sense, consistency, the usage in other similar cases, and simple constitutional right.

We believe we express the conviction of the people of Utah when we say that no shadow of crime really rests upon the gentlemen who have thus been persecuted. They are free from suspicion in the minds of their friends and co-religionists. They need not think that anyone whose esteem is valuable will imagine them guilty of the foul deed imputed to them. And there is far more reason to think that Dr. Robinson met his death at the hand of a murderous enemy of his own party than that he was slain by any one connected with a Church, one of whose commandments declares "thou shalt not kill," and one of whose prominent tenets is, that a murderer hath not eternal life abiding in him and shall not have forgiveness in this world or the world to come.

### PLAINLY PUT.

THE following letter from ladies residing at Beaver has been placed at our disposal, and we give space to it because it is so true and pointed that we think no one can reasonably object to its statements and sentiments:

BEAVER, Feb. 5, 1880.

Hon. J. R. Murdock,  
Salt Lake City.

Dear Brother.—Your favor of the 26th is received. Had we known that the ladies of Salt Lake were going to send in a petition, we would have endeavored to get ours in earlier; but we hoped ours would cause the subject to be again agitated. We do not look upon this question as a social one, but simply political—one of equal rights between citizens of equal ability and intellect; consequently we do not regard the legislators as ungallant, but decidedly illiberal. How faithfully have the ladies of Utah stood by the brethren for the past ten years in exercising the right to vote.

How often have the thinking and substantial ladies of Beaver walked the streets, in storm and sunshine, to use their influence with the careless add unthinking, and urge them to vote the right ticket. How often would the brethren have been defeated at the elections in Beaver, without the ladies' assistance? After 10 years of faithful labor can you not trust us still further? We think the refusal proceeds from fear and selfishness. Fear that the ladies will get a little of the influence and popularity which is their right; selfishness, because the gentlemen dislike to give up any of the emoluments of office. We think the legislators would pass the bill if they were sure of the Governor's veto, in order to make themselves popular with the ladies; but we think they are afraid he would sign it. At any rate we would rather owe our defeat to the Governor than to our brethren.

With much esteem we subscribe ourselves,

Yours truly,

E. A. Farnsworth, S. A. Shepherd, Ellen Coombs, L. B. Pratt, Eliza Lee, M. A. Ashworth, Ida F. Hunt, Emma Lee.

### "THE VALIDITY OF DIVORCES."

A BILL was introduced in the House at an early day of the present session, for the purpose of providing means whereby the validity of divorces decreed under the old law of this Territory, now repealed, can be ascertained and established or disproven. As there seems to be some misunderstanding of its object and provisions, we will here briefly explain them, and also the necessity for some measure of this kind.

The old law provided that a person seeking a divorce must either be a

resident of this Territory or show to the satisfaction of the Court that it was *bona fide* "his intention to become such," before any proceedings could be had. By reference to the first section of the old Act it will be seen that actual residence was a requisite before the decree could be issued. That is, the complainant might file her petition for a divorce before coming into the Territory, but must be an actual resident previous to receiving the decree.

It is well known that many divorces were granted under that law in which parties evaded its full provisions, and thus brought the system into reprobation. It is clearly wrong to grant divorces when neither of the parties to the suit are residents of the Territory or State in which the decree is given. So the Courts in various States have pronounced some of the decrees issued by our Courts here void and of no effect. The consequences to the parties in many instances are very serious. Some have married again since obtaining the decree, and have thus subjected themselves to prosecution for bigamy under the laws of the States where such marriages have been contracted.

Now, there is no doubt that some of these persons richly deserve all the trouble and punishment they have reaped as the fruit of their deceptive acts. But there are others who in good faith have carried out the provisions of the Utah statute under which they obtained divorce, both in its letter and spirit, and in consequence of the rulings of competent courts in other cases, they are placed in a position of painful doubt and uncertainty as to the validity of their divorces, and also the legality of marriages consequent on such divorces.

The bill introduced, but which naturally excites some suspicion because of the bad odor of "patent divorces," merely provides the means whereby such persons may come into court and have the validity or invalidity of their divorces established by judicial decision. Such persons before entering complaint must have been continuously for one year next prior to the filing a *bona fide* resident of the Territory. The defendant to the suit must be served with process as provided by law in original divorce suits. If the former suit was brought in the Probate Court the new case may be brought in the Probate Court, but if in a District Court then in a District Court. The Court is also authorized to pronounce on the legality of a marriage which has been the consequence of the divorce sought to be validated, but not on any other kind of marriage.

Careful examination of the bill discloses no such cause for suspicion as some entertain. It is carefully guarded and only makes it possible for a person having in good faith procured a divorce under the old law, fully complying with its provisions, to have his divorce tested and pronounced upon by a Court having jurisdiction.

The benefit of this will be that having the decree pronounced valid (if such it proves on judicial examination of all the facts and circumstances) in the courts of Utah, it will be held as valid in other parts of the Union, on the constitutional provision that "Full faith and credit shall be given in each State to the public acts, records and judicial proceedings of every other State." This provision of Article IV. Section 1 of the Constitution has been applied by the Supreme Court of the United States to decrees of divorce, the validity of which has been passed upon by a court having jurisdiction.

As the case now stands such persons as are placed in doubt by the decisions of courts in other cases—which have the effect of precedent and give rise to the idea that all Utah divorces are void—have no way of proving whether their divorces are valid or invalid. This bill provides the manner in which their position can be determined. It appears to us that it can do no harm to any one, and that it opens the way by which alone justice can be done to parties who have acted honestly under a law now repealed, but which was on our statute books for twenty-six years.

The bill is under the consideration of the proper committee, who will doubtless examine and take such action upon it as their judgment may dictate. We do not refer to the subject for the purpose of influencing them in any way, but merely to explain a matter upon which there has been some misunderstanding and misrepresentation.

### EXPLANATORY.

A notice of the *Utah Farmer* having inadvertently appeared in this paper, last evening, it becomes necessary to inform the public that we have learned upon inquiry that the *Farmer* is not published by the authority, nor under the auspices, nor with the sanction of the Church in any way whatever. No name of editor appears on its pages, and lest it might be inferred that it is published with the approbation of the Church, we make this brief explanation.

### THE DESERET UNIVERSITY.

MANY of our influential citizens have expressed a desire to see the University, which has been established under the patronage of the Territory, placed upon a more satisfactory basis. At present the building used by the University is a rented structure not altogether suitable either in construction or location for the purposes of the college. The institution should have a building erected on grounds of its own, and be improved so as to be fully worthy of the name it bears, and occupy a position of which the friends of education in this Territory might be proud.

If the Legislative Assembly would be liberal towards the University without crippling the resources of the Territory, several well known gentlemen of means, we believe, would follow the example of the Legislature and donate in aid of the institution. This is a subject worthy the attention of our law-makers, and we hope they will accord to it the consideration it deserves.

### IRISH DISTRESS.

THE New York *Herald*, a representative American newspaper, which does some things out of a desire to benefit humanity and some out of an improper anxiety to make itself notorious, has of late made its name a household word in the family of every Irishman in the United States and Great Britain, by the interest it has taken in soliciting and handling donations for the relief of the suffering poor in Erin. Mr. Parnell, a Home Rule leader in the British Parliament, came to this country some weeks ago to advocate his ideas and arouse American sympathy in behalf of his plans. He soon quarreled with the *Herald*, which warmly espoused the cause of the poor and insisted that in the present distressing condition of the island, the Land Agitation should be allowed to slumber for the time being and that all the energies of Irishmen and Irish sympathizers should be directed toward furnishing supplies to the starving people. Our dispatches from time to time have contained accounts of what has been done by the benevolent of the United States in this matter. The *Herald* itself, as an indication of its sincerity and friendly feeling, donated the munificent sum of \$100,000; John Mackay, of Comstock mining fame, gave \$10,000; and gentlemen of wealth and benevolence, as well as newspapers and business establishments of all kinds, have sent liberally for the relief of the sufferers. Checks from all parts of the country have flowed into the *Herald* fund, which has swelled to a large amount, and which will, when properly distributed, gladden and make thankful many a poor Irish heart.

A proposition is now made to organize a committee to receive clothing, etc., the free transportation of which to Ireland has been guaranteed. Mr. Dion Boucicault, of New York, an Irish actor of fine attainments, and a playwright of great fame, suggests that theatrical performances be given throughout the country on the Irish national holiday, St. Patrick's day (the 17th of March), the proceeds of which shall be devoted to the relief of the sufferers. The proposition is meeting with much encouragement, and we read that in various places it is decided that the customary procession on that day shall give place to these benefit performances. The mind of the public is thoroughly awakened to the needs and distress of our fellow-creatures across the sea, and ministers, editors, lecturers and gentlemen of leisure, are interesting themselves in the movement. America's reputation for liberality and the expression of substantial

sympathy is already established on an enviable foundation, and her people will receive additional praise and gratitude because of their noble response at the present time.

### COMMUNICATIONS TO THE DESERET NEWS.

WE will be much obliged to those who have any communications to make to the DESERET NEWS, if they will hereafter address all correspondence or other articles for publication to the Editors, and all business communications to the Business Department. By simply writing, "Business" on envelopes addressed to this office, the distinction will be drawn and much benefit will result to both departments.

### WHO IS GOVERNOR?

QUITE a discussion has arisen as to the right of Governor Emery to act in his office until the new appointee arrives and assumes the functions of Governor. It is claimed by some that under section 1769 of the Revised Statutes of the United States, "Emery is out." Here is the section:

"The President is authorized to fill all vacancies which may happen during the recess of the Senate by reason of death or resignation, or expiration of term of office, by granting commissions which shall expire at the end of their next session thereafter. And if no appointment, by and with the advice and consent of the Senate, is made to an office so vacant or temporarily filled during such next session of the Senate, the office shall remain in abeyance without any salary, fees or emoluments attached thereto, until it is filled by appointment thereto, by and with the advice and consent of the Senate; and during such time all the powers and duties belonging to such office shall be exercised by such other officer as may by law exercise such powers and duties in case of a vacancy to such office."

Careful reading of this quotation will show that it does not apply in any manner whatever to the present case. This is not a vacancy at all; the Senate is in session; the office is not in abeyance. A new incumbent has been appointed and confirmed, but he has not yet qualified. Section 1841 of the Revised Statutes provides that:

"The executive power of each Territory shall be vested in a Governor, who shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the President."

Governor Emery has not been removed, and the Organic Act of this Territory provides that the Governor and Secretary "shall, before they act as such, respectively take an oath or affirmation before the district judge or some justice of the peace in the limits of the Territory."

We do not see how anything can be clearer than that Governor Emery holds his office until his successor arrives and qualifies in the limits of the Territory. We hope he will not suffer himself to be "bluffed" or "bulldozed" out of his rights.

### LOCAL AND OTHER MATTERS.

FROM THURSDAY'S DAILY, FEB. 12.

### NOTICE TO SUNDAY SCHOOL SUPERINTENDENTS.

SALT LAKE CITY.

Superintendents of Sunday Schools, who have not yet sent in their annual report for the year ending Dec. 31st, 1879, to their respective Stake Superintendents, are respectfully and urgently requested to do so immediately.

This being the fiftieth year since the organization of the Church, or year of jubilee, we are particularly anxious to obtain full and correct reports from every Stake, in time for publication at our annual April conference, and therefore, by having them forwarded during the present month, we shall be able to prepare our Territorial report in time.

Address Stake Reports to Levi W. Richards, Sec. Box 1013.

GEORGE GODDARD,  
Ass't Gen'l Sup't D. S. S. Union.

**Blocked.**—The Utah Southern express was detained over three hours this morning at the Point of the Mountains by heavy snow drifts on the track.