

DIVORCES IN THE PROBATE COURT.

Report of the Grand Jury.

To M. K. Harkness, foreman, and the Grand Jury of the Third Judicial District; April term.

GENTLEMEN: Your committee appointed to examine and report upon the conduct of affairs in the Probate Court of this county, beg leave to offer the following as the result of their investigations:

Your committee have confined themselves more particularly in their investigations to the branch of divorce business as carried on in that court, and we would here say that it is beyond the limit and power of this committee to give, in detail, every case of divorce as it appears on the records of the court; but we believe that the showing of such cases as we present are a fair representation of the practice of granting divorces in this court, and we think will fully convince this jury that the system of granting divorces in said court is such an outrage on justice and law, that measures should be taken that would at once stay such proceedings.

As an example of the practice in said court, we would state that from the beginning of September, 1876, to September, 1877, there have been upward of 300 divorces granted, and at least eighty per cent. of that number were applied for when both parties to the suit were non-residents of the Territory and beyond the jurisdiction of the said court.

Under this practice it is quite evident that great injustice must be done, and the mockery it makes of judicial proceedings which are supposed to be the most sacred trust of any court. We find that it is the general rule of practice in this court, where the parties are non-residents and where the complaining party prays for relief from his or her matrimonial obligations, to employ some not over-sensitive or unscrupulous attorneys whose names are very seldom attached to the complaint, to forward the same to the Probate Court. When the complaint is filed, accompanying this document is an affidavit from the party complaining to the effect that the grievances, etc., as alleged in the complaint are all made in good faith, and that he or she, as the case may be, intend to become a resident of Utah, but at present it is out of the power of the applicant, and that the last known place of residence of the defendant was so and so, naming the place.

Upon the showing of these valuable single-handed documents, made by the plaintiff, his Honor Judge Elias Smith issues a summons to be addressed and mailed to the last known place of residence of the defendant as sworn to by the plaintiff, and citing him or her to appear before his court on from twelve to sixteen days, and show cause why such relief should not be granted as prayed for in the complaint.

Now, the plaintiff in these cases, for instance, lives in New York, which gives five days to go and five days to return, and which leaves a margin of only a few days for the defendant to consider whether he or she shall appear in the action. But the time of the court appears to be too valuable to be wasted upon any such trifling contingency as the summons not reaching the party to whom it was addressed, even supposing that the last known place of residence is given correctly. But the court seems to have great faith in the postal department, and a letter must, of course, find the party to whom it is addressed. So accordingly on the last day given for the appearance of the defendant, his Honor Judge Elias Smith grants the decree as prayed for.

Such in brief, is the practice of this bogus divorce mill, when the parties are non-residents, and where the complaining party prays for a decree of divorce, upon the grounds of incompatibility of temperament, different aims and objects in life, etc., all of such reasons being the most frequently used.

But we find a still more novel and direct method of shuffling off the matrimonial obligations. For instance, a husband and wife, both non-residents, and either of them making complaint and swearing that the defendant has abandoned his or her home, and filing such sworn statement without any other corroborative evidence, can get the decree granted on the same day

the petition is filed. As this may seem too incredible for belief, we will here cite several cases as examples of many more, viz:

Rose Barney vs Dennis Barney; complaint filed January 3d, 1877, and sworn to in San Francisco; decree granted same day.

Dominick Morogh vs. Josephine Morogh; complaint sworn to in New York and filed January 3d, 1877; decree granted same day.

Bently Stevens vs. Adeline Stevens; complaint sworn to in Chicago, filed February 20th, 1877; decree granted same day.

Robt. E. Nesbit vs. Frances H. Nesbit; complaint sworn to in Terre Haute, Ind., filed February 20th, 1877; decree granted same day.

Alice Attwood vs. Nathaniel Attwood; complaint sworn to in St. Louis, filed April 16th, 1877; plaintiff swears that defendant's last known place of residence was at sea; decree granted two days after filing of the application.

John B. Vial vs. B. D. Vial; complaint sworn to in New York; filed April 5; last known place of residence of defendant, in France; decree granted April 9, 1877.

To further instance the fraudulent and nefarious practice of this divorce business, we would cite the following cases:

Helen Leonard applied for a divorce from Peter Leonard, of Ill drington, Canada, files her complaint in the court, swearing to it in Allen County, Indiana; asks, as a personal service cannot be made upon defendant within the jurisdiction of this court, that the Court direct that service be taken as forfeited, according to section 5, Utah Statutes, in reference to divorce. Decree granted two days after filing the petition.

Mary A. Smith files a complaint against Orlo Smith, on June 29, 1877; in application makes usual statement that she wishes to become a resident of Utah, but circumstances at present prevent. Orlo Smith makes answer, sworn to before John F. Evans, clerk of Common Pleas, Delaware, Ohio, stating that plaintiff is not and never was a resident of Utah; is and always was a resident of Delaware, Ohio, and that her petition for divorce is a fraud, practised by diverse wicked and unscrupulous attorneys; defendant does not consent to the jurisdiction of Judge Smith's court, and wants the action dismissed. George C. Bates, Attorney for plaintiff, on February 16, 1877, demurs to defendant's answer on plea as containing no defense within law or equity to the bill filed in this court, and prays judgment according to prayer in the bill; decree granted March 2, 1877.

Amelia L. Elifritz applies for a divorce from Daniel G. Elifritz; petition sworn to in Chicago, February 21, 1877. Defendant writes February 28th, from Atlantic, Iowa, to the court, "Received this day notice purporting to come from you, and in regard to a suit by my wife against me; the notice does not say what for; I want particulars." It states that his wife is not, nor never was in Salt Lake. He wants to know in time, so he can send an attorney to defend. March 1st he writes again, stating that his attorneys say the notice received is illegal, unless it states what the action is brought for. "If you render a decree against me," he says, "for anything without legal process, I will make it hot for you." After this correspondence the court pursued the even tenor of its way and granted Amelia the decree on the 20th day of March, 1877.

Another case presenting features of a novel character is as follows: A. H. Grant writes from Rock Springs, Wyoming Territory, Feb. 18, 1877, to D. Bockholt, Esq., who is clerk of the county, as follows:

"Dear Sir—Herewith find complaint signed. I have been waiting to hear from my friends; have received answer from two, all I wrote to, and they are willing to make the affidavits. I have written them to forward to me immediately. I believe the defendant is living at Animoso, Jones County, Iowa, was the last I heard of her. I don't know whether her consent could be obtained or not. It would be according to her feelings in the matter. I wish to gain this divorce with as little publicity as possible. As soon as the affidavits arrive I will forward them. Should I go into Utah I will inform you. I am expecting an office somewhere in Utah soon.

"(Signed) A. H. GRANT." His complaint is filed for divorce

February 21st, sworn to before Solomon Rans, J. P., Sweetwater County, Wyoming Territory, February 16th, 1877.

On March 2d, he writes again as follows:

"ROCK SPRINGS, W. T., March 2d, 1877.

"Dear Sir—I have two affidavits in my case. Shall I send them to you? I expect two more in a few days. If you wish them I will send them all at once. Respectfully yours,

"(Signed) A. H. GRANT.

"To D. Bockholt, Clerk Probate Court, Salt Lake City, Utah."

He writes again, March 10th, 1877.

"To D. Bockholt, Esq.

"Dear Sir: Herewith find two affidavits; will send the others as soon as they arrive.

"(Signed) A. H. GRANT."

To this Louisa A. Grant, the defendant made answer under date of March 5, 1877.

"That no service has been made upon her, and she has only during the week past received a copy of the complaint and summons through the mail; has not had time to present counsel all the facts and circumstances to enable him to prepare her answer, but will do so with as little delay as possible; is advised by counsel that she has a good and meritorious defense; her residence is Animoso, Jones Co., Iowa; said plaintiff abandoned her without cause and left her with two young children dependent upon her for their support, said children being the fruits of the marriage between plaintiff and this defendant; she is compelled to support herself and them by her own labor; she has no means to pay counsel for preparing and conducting her defense, and she asks to be granted reasonable time for preparing her defense, and that the court will order that plaintiff shall pay her such sums by way of temporary alimony as shall seem reasonable to this court for employing counsel to prepare and conduct her defense herein.

"(Signed) LOUISA A. GRANT."

Upon this showing the Court granted a continuance of thirty days, at the expiration of which time a decree was granted, April 13, 1877.

Your committee have examined 100 consecutive cases and find among these the following:

Cases	deor's granted same day	compt filed
8	1 day after	"
9	2 days	"
3	4	"
3	5	"
2	6	"
2	7	"
1	8	"
1	9	"
2	10	"
2	11	"
2	12	"
1	13	"
1	14	"
6	15	"
5	16	"
3	17	"
7	18	"
6	20	"
1	21	"
1	23	"
1	27	"
1	32	"
1	31	"
10	40	" and over.

3 cases unsettled.
1 case removed.
1 case dismissed.

We also find that the total number of divorce cases applied for is 343, in the Probate Court of this county, for the year ending September 1st, 1877, and to show how rapidly this disgraceful business is on the increase, we give the number of cases for the first six months, dating from September, 1876, as also the last six months ending September, 1877, viz:

First six months, 62 cases; last six months, 281 cases.

Your committee deem that the statistics taken from the records of this Probate Court, and as shown herein, are sufficient evidence to call for the prompt suppression of these unjust and illegal proceedings, and your committee have good reason to believe that other county Probate Courts of this Territory are likewise engaged in this class of divorce business to an equal if not greater extent.

A significant fact as shown by the examination of your committee, is that all divorces on file from non-residents, which we have examined, have been granted, no matter how trifling or unwarrantable the alleged grounds of complaint, nor how informal the proceedings may be, except where some resident attorney has appeared to make defense. And also in

many cases the words "county of Salt Lake and Territory of Utah" were left blank at the time the petitions were sworn to, and afterwards filled in with another hand writing, different from that in the body of the complaint.

Your committee accompany this report with an abstract of over 150 cases, which, upon examination, have been found not to differ materially in character from those herein detailed.

We also find that in a large number of cases the complaint and all the papers in said cases are in the handwriting of Elias Smith, presiding judge of the court wherein the cases are pending, showing the questionable proceeding of a judge practicing in his own court.

These developments made by your committee in their investigations, fully vindicate his Honor, Chief Justice Schaeffer, for his order enforcing the law relative to the inspection of public records, and furnishes an explanation of the resistance of Judge Elias Smith, and Clerk, D. Bockholt.

R. MACINTOSH,
G. A. LOWE.

The within report was adopted this 26th day of Sept., 1877.

MARTIN K. HARKNESS,
Foreman.

Attest: G. W. BOSTWICK,
Clerk.

Following this there is a list of 150 cases, complete in detail of the places of residence of the plaintiffs and defendants, date of complaint and the names of the attorneys when given. This list shows that attorneys have appeared in only sixty-seven cases of the 150. They are as follows:

George A. Webster	27
George C. Bates	19
M. M. Bane	16
S. S. Smith	1

C. K. Gilchrist, E. M. Barnum, Rosborough & Merritt, Williams & Young, S. DeWolf and Robertson & McBride, appear as attorneys in one case, each and all of which, however, are regular, and were conducted according to the provisions of the law.

With the exception of six of these cases, therefore, the whole of these divorces were procured as indicated in the report of the Grand Jury.

INDIANS AT MALAD.

Report of the Grand Jury.

To the Third Judicial District Court of the Territory of Utah:

The Grand Jurors of the April Term of said Court most respectfully submit the following report:

The refusal of a portion of the Shoshone and Bannock Indians to stay upon their reservation, at Fort Hall, Idaho, and their intrusion into the northern part of Utah, has been productive of much trouble and alarm to white settlers of Corinne and vicinity. Two years ago the citizens of Corinne became apprehensive of danger, owing to the camping of a large number of these Indians in the immediate vicinity of that place, and whose attitude was by no means friendly nor peaceable, but their pretence was that they had come to settle upon and improve government land there. Finally, the matter was laid before the Governor, which resulted in the sending of United States troops to Corinne, and the withdrawal of nearly all of the Indians to their reservation.

Still the lawlessness of these Indians has been but measurably controlled. Some complaints against them have been made to Governor Emery and that officer, after investigation, has produced before the grand jury such evidence as convinces us that the subject is one of such grave importance as to demand the immediate attention of the Secretary of the Interior. The testimony, in brief, is as follows—

The legal place of residence for these Indians is Fort Hall, Idaho, as they have not yet renounced their tribal relations and live and dress like all wild Indians. Provision for their support is made at Fort Hall and, when in want of provisions, blankets, &c., they go there to get them, returning to Utah afterwards.

At the present time there are about 100 Indians near Corinne, half of them males. They are under the immediate control of Bishop George W. Hill, of Ogden. Bishop Hill says they are improving farms, with a view to settling on them. A number of them have

already filed on land, as the following statement taken from the books of the U. S. Land office in Salt Lake City shows—

(Then follows a statement of sundry pre-emption entries made by Indians.)

The evidence given by witnesses who have been over the land in question is that no houses have been built thereon. There are a few sheds and huts. Nearly all live in brush shanties. The Indians give little evidence of becoming farmers. They do but little work, the most of it being done by white neighbors who are detailed for that purpose as missionaries, while the Indians roam about at will. Witnesses state their belief that the Indians could not live there if left alone and that subscriptions in the settlements are made for the aid of the Indians. The adjoining settlers and Montana freighters are annoyed by the Indians stampeding stock and ruining the road.

This bad conduct on the part of the Indians is believed by these witnesses to be caused by certain white men, who are using them as tools for the purpose of entering land for the benefit of these white people, and that they are also used to frighten and deter obnoxious white settlers from coming into the same valley. Once the Indians should acquire a U. S. Patent to the land it is supposed that means would speedily be found to transfer the title to the unprincipled parties who are using the Indians for such illegal purpose. And this belief is the more probable in view of the notorious fact that only about five years ago more than a hundred white men were induced to file on and enter an immense tract of land, known as the Church Farm, only a few miles from the present location of the Indians, and on which land so filed upon and entered, there was scarcely a single habitable house, and the title to which land was almost immediately transferred to the person for whom the parties entering had perjured themselves in so doing.

The following letter is significant in this connection—

SALT LAKE CITY, Jan. 3rd, 1877.

Elder Asa Garner, Ogden City.

Dear Brother—Whilst seeking information with regard to the admirable work that is being at the present time, accomplished among our Indian brethren on the Malad farm, we incidentally learned that, as yet, you had not responded to your calling and appointment to labor as a missionary in their midst. Feeling a deep interest in the welfare and happiness of all our brethren we think it desirable to kindly remind you of this fact, so that you might know that you were not forgotten, for we are full well assured that the path of duty for a Latter-day Saint is not only the path of safety, but the path of salvation also. We therefore feel impressed, not only for the sake of our brethren of the Lamanites, but also for your own, to suggest that you show yourself alive to this duty and calling and perform the work to which you were assigned, and report, at as early an opportunity as convenient, to Brother George W. Hill, of Ogden, who has the direction of the labors of the missionaries on the farm. If, however, there should be any circumstances which would deem a valid excuse for not performing this work, please communicate with us, and rest assured the same shall have our kindest attention and consideration.

Praying the Lord to abundantly bless you in every good word and work.

We remain,
Your brethren in the Gospel,
(Signed) JOHN W. YOUNG,
DANIEL H. WELLS.

Missionary work, alluded to above, consisted in performing manual labor on the Indian or Malad farm, while the Indians themselves either loafed or went to Fort Hall for fresh supplies.

We desire to add our conviction that the action of the dominant Church in Utah in proselyting the Indians to that faith has very much increased the disloyalty of the Indians to the U. S. government, and has also intensified their hostility toward that portion of the white population who are not members of said Church. They are in the habit of classifying all whites as either "Mormons" or "Amerikats," the former being called friends and the latter enemies. Were the Indian agents in charge of contiguous reservations properly mindful of their duty to keep their Indians thereon, their Indians would not be susceptible to the malign influence of these white mischief-makers who now use them for their own selfish ends and profit.

MARTIN K. HARKNESS,
Foreman grand jury, April Term of the Third Judicial District Court, Utah Territory, this 26th day of Sept., A. D. 1877.

The within report was adopted this 26th day of Sept., 1877.
Attest: G. W. BOSTWICK,
Clerk.