

# A MISSIONARY'S OBSERVATIONS IN THE SOUTH.

NORTONVILLE, Greene Co., Va.,  
December 12, 1885.

Editor Deseret News:

After a brief sojourn in the "Old Dominion," and thinking a few items from a "Salt Lake boy" would be acceptable to your numerous readers, I enclose the following.

In my labors here as a missionary, the habits, customs and general condition of the people appear new and strange to me. They possess many good traits and characteristics, prominent among which are politeness and hospitality, but it cannot be denied that they are laboring under a great degree of ignorance and oppression. From what I have already observed, and with a faint recollection of life in the "Old country," I am fully convinced that of all places in this wide world for residence "Our mountain home" is the best.

"Illegal cohabitation" without respect to class or caste, must have been practiced to a great extent in this section in past years, as is proved by the members of mixed and illegitimate children of all ages, that I continually come in contact with.

I think the advice of our brethren at home on the "wheat question" is appropriate, and if this State's experience in raising grain the past few years is anything of a criterion; the people of Utah had better save all they can. Old and experienced farmers tell me that they have not had a corn wheat crop since 1882, and that the corn crop also, has been a failure for even a longer period.

Tobacco is raised here in abundance, both sexes using a great deal, and when I tell you that in a neighborhood of fifty families, there are situated some twenty private distilleries for the manufacture of brandy, you may be able to judge to what an extent the people are being led by their depraved tastes.

Proselyting here, is only fair at present, owing to the total indifference of the people, who seem to have too much regard for the affairs of this life, to care anything about religion; however, there are a few honest souls that have a desire to turn from their evil ways, and endeavor to do better, and I presume it is the reclamation of these few that keeps me here.

Praying God to bless all who are laboring in the cause of truth, I will conclude, with a promise of more anon.

Respectfully, your brother,  
JOSIAH BURROWS.

## THE FIRST DISTRICT COURT.

EDITOR HEMENWAY CONVICTED—  
"MORMON" NEWSPAPERS MUST NOT  
CRITICISE THE CHARACTER OR ACTIONS  
OF THE SACRED FEDERAL  
OFFICIALS—LIBELOUS ANTI-"MORMON"  
ASSAULTS QUITE PROPER.

OGDEN CITY, Utah, Dec. 19, 1885.

Editor Deseret News:

I have already telephoned you the result of the trial of Charles W. Hemenway, on the charge of libeling several Federal officials. The arguments *pro et con* in the case were concluded about 4 o'clock on Friday afternoon, and the case was given to the jury who retired to consult on their verdict. In a little less than an hour and a half they returned into the court room and rendered their judgment—

### "GUILTY"

as charged in the indictment. No one was surprised at this, as the public mind hereabouts was fully prepared for it.

The Court did not increase the bonds of the defendant, although asked to do so by the prosecution. On the 4th prox. the editor will receive his sentence, about which there is a great deal of conjecture and speculation just now. While quite a number of anti-"Mormons" are jubilant over the result of the trial, Mr. Hemenway has the sympathy of numerous friends here and elsewhere.

This morning the court-room was well filled. After the usual opening

### A SOLEMN SILENCE REIGNED

in the hall, and the audience listened with almost breathless attention to the comments and ruling of Judge Powers on the demurrer of Mr. Hemenway to the charge of libel of Chief Justice C. S. Zane, of the Supreme Court of Utah Territory.

His Honor read the "libelous article," by paragraphs, emphasizing a number of passages and commenting and strongly animadverting upon them. The strictures were severe. He said no stronger language could be used than were contained in the article in question, and if they were not

### LIBELOUS IN THEIR CHARACTER

he knew not what were. In the course of his remarks he said the court meant by the defendant was the Third District Court; the Judge was Chief Justice, Charles S. Zane, who presides over the court of last resort in this Territory; that he was a gentleman of high standing, great learning and estimable character; the decision referred to by the writer was in the case of Vandercook, who was before the Court on a writ of *habeas corpus*, and whom the law presumed to be innocent until he has been proven to be guilty.

His Honor said the decision rendered in the case by the Chief Justice

## WAS A JUST DECISION.

That it was not "crooked," but straight, and that the article in question was a libel on Judge Zane. The demurrer was therefore overruled, and the trial of this case was set for Monday, the 21st inst. His Honor's ruling was fully anticipated by many in this community, and had a contrary decision been rendered there would have been much surprise manifested at it.

After the Judge had ruled on the demurrer, he said in a sort of conversational style, he wished the press of this Territory, the influence of which is so powerful, would change its course, and cease to publish articles which, in their character, were inflammatory, and tend to excite and array one faction of the public mind against the other.

Writers should use the great power they possess, for good, to promote peace, and not lead the people up to

### PERILOUS TIMES.

His Honor said that unless this is done the people will feel, ere long that they can put no trust or confidence in what they read in the public press. The conductors of public newspapers have great power for good or evil, and they ought to use that power well and properly.

The reporters present listened to the exhortation of the court on this important matter with much interest, and I would humbly suggest that you commend the advice to your neighbor!

WEBER.

## THE MEANING OF "COHABIT."

Much as all intelligent men and women in America outside of Utah desire the suppression of polygamy, the *Daily News* questions if they are willing to see the meaning of the English language distorted in order to bring defiant Mormons within the penalties of the Edmunds act. And yet it is impossible to escape the conclusion that the majority opinion of the Supreme Court of the United States puts an indefensible construction upon the word "cohabit" in order to sustain the conviction of ex-Delegate Cannon. Let us be as merciless to the Mormons as their offense against the laws of the nation warrants. But let us do no violence to those laws even to punish a polygamous Mormon.

In order to find Cannon guilty the Supreme Court was forced to hold that a man cohabits with more than one woman when he lives in the house with them and eats at the table of each a portion of the time, although he does not occupy the same bed or sleep in the same room with either of them, or actually hold those relations with either of them that wedded life implies. Mr. Justice Miller, in his dissenting opinion, took direct issue with this definition of the word "cohabit." He held that when the act of Congress prohibited cohabitation with more than one woman it meant the unlawful habitual living together of one man with more than one woman with all that the connubial relation means. Without this he believed it a strained construction of the statute to hold that a man could be guilty thereunder, and he said that he knew of no instance where the word cohabitation had been used to describe a criminal offense when it did not imply such relations. Neither do we, nor do we believe that the majority of the Supreme Court of the United States knows of such an instance.

The primitive meaning of the word "cohabit"—from *con*, i. e. cum, with, and *habit*, are to dwell—has long since merged in the modern meaning of "to live with as man and wife," the state being implied by apparent relations of the individuals. Webster's definition of this word is manifestly and strangely defective, and could only have been accepted by the court to bolster up a dubious opinion. He merely echoes Johnson's definition of "to live together as husband and wife," without Johnson's example explaining that the cohabitation of man and wife implied more than mere dwelling together. The two most modern authorities agree in giving the true and universally accepted definition of the word "cohabit." Stormonth defines it thus: "To live together as husband and wife, usually applied to a man and woman without marriage." The Imperial dictionary gives even a more satisfactory definition of the word, as usually applied to persons not legally married and suggesting full connubial relations. Cohabitation, it says, is the state of living together as man and wife, often said of persons who are not legally married, and with special reference to the relations that would be implied between them if they were. Thus at last does an authority on the meaning of words cast aside prudery and define "cohabitation" as it has been used in divorce and criminal law and in the English language for three centuries. If the Edmunds act intended to change the meaning of the word in order to secure the punishment of polygamous Mormons it should have contained a section defining the meaning of "cohabit" for the purposes of that specific statute. It is a dangerous precedent for any court to put a new and strained construction on a word, even to accomplish so great a good as the suppression of polygamy."—*Chicago News*.

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## THE CONDUCT OF THE PRESS.

In the Hemenway libel case at Ogden, Judge Powers made some very good remarks on the power of the press and the necessity of moderation. He said he wished that "instead of arraying one fact against another, leading the people up to perilous times, they would use the great power they have for good, for good order, for peace; that they would assist this Territory towards an era of prosperity, and not an era of trouble."

The Utah newspapers have adopted the use of very strong language, and subjects have been discussed in their columns which are not of the most savory character. But this course has been imposed upon some of them by the force of circumstances. For many years the *Deseret News* refrained from noticing the scurrilities and willful falsehoods poured out in a daily stream of filth from a paper that acted as the organ of the Federal Officials. Judges included, of this afflicted Territory. Our silence was misconstrued into inability to answer or even deny the monstrous libels against men, women and children, as well as the community in general, which were the chief pabulum dealt out to the public by the *Salt Lake Tribune*.

No Federal Judge ever called the attention of a grand jury or the public to the degrading language and vile utterances and daily exhalations of that cesspool of slander. Its pretended facts were not adverted to nor its blasphemy and blackguardism condemned. When it became so outspoken of its principles as to actually recommend the saloon, the billiard hall and the bawdy house as worthy weapons wherewith to combat the influence of "Mormonism," no word of warning or dissent was ever heard from the bench or the pulpit.

Judge Powers now objects to the "arraying of one fact against another." But does he expect that the policy of silent patience can be perpetually continued? Are falsehoods to be forever published without a word in rebuttal? Does he imagine that the "Mormon" press and people are so credulous, as to think there would be any chance for justice in a prosecution for libel against a paper which has apparently been the pet and organ of the courts and its officers? Fact will have to be pitted against falsehood, and the villainy of willful liars will have to be exposed by the press until there is some probability of the triumph of justice in the courts of law.

The language used by editor Hemenway for which he has been prosecuted is gentlemanly and eulogistic in comparison with the billingsgate which has emanated from the *Tribune*. We refrained from even mentioning the name of the unclean thing until it became a trifle more decent than it had been for years. Its language now is actionable almost every day, but that is not to be compared with its previous common vulgarity, abuse and obscenity. The editor of a "Mormon" paper is prosecuted chiefly through the invitation of Judge Powers; the anti-"Mormon" blackguards have never been judicially attended to. Until there is some semblance of fairness in the treatment of the libel question, Judge Powers need not expect that a homily from the bench will have any good effect.

There is another thing to which we direct his attention. The course of the judiciary here has not been in the direction which he desires the press to take. On the contrary, it has been as much or even more calculated to bring about the evils he deprecates than the action of the press. Not only have sectarian tirades been delivered from the bench, apparently for the purpose of arousing the feelings of the community to the most intense antagonism, but direct and atrocious falsehoods have been fulminated, in charges to juries and sermons to convicted defendants, delivered with a venom and a demonstration of passion quite out of place in a court of justice, and both degrading and contemptible in a judicial office.

While judges on the bench indulge in such unseemly language and intemperate exhibitions of rage, it cannot be wondered at that the press furnish the public with inflammatory material. If a Judge on the bench, in a cowardly manner lashes a defendant with the vigor of a malicious tongue, when his victim is bound as it were hand and foot, with no chance to defend himself, is a writer for the press required to pass by such conduct without comment? It is his right and his duty to criticize such unseemly displays of petty spite and judicial spleen. And if peace is desired, and the influence of the press is wanted to "assist this Territory towards an era of prosperity and not an era of trouble," let the Judges set the example and work in that direction themselves.

We find no fault with their enforcement of the law. We are not now even alluding to their strained and unprecedented interpretations of statutes, or their seeming favoritism towards one class of the community and harshness and severity to another. We are referring to the libelous language, the undignified attacks, the menacing and violent expressions that have been hurled from the bench against individuals, a Church and the community. These have been written as much calculated to lead to the riles times as anything that has appeared in the papers of this Territory. What re-

dress is possible in Utah when a Federal Judge places a whole people or an individual placed at his mercy?

Can anything be pictured more cowardly than the figure of such a Judge, sheltered by the panoply of the law, hedged around by all the protection of his office, strengthened in the knowledge that popular prejudice will wink at any of his excesses if they are only in the line of that animosity, secure in the conviction that the only power that can reach him will not interfere in his vindictiveness, pouring out the vial of an acrimonious soul upon the bared and defenseless head of his victim, made dumb by the rules of the court, and compelled to hear his actions misrepresented, his motives misconstrued, his language distorted and his wives and little children defamed and vilified in public. No words we can frame express the contempt we feel for such a Judge and for those who sustain his cowardly and vindictive course.

And we do not propose to be silent under such circumstances. Neither shall we refrain from proper criticism of the doings of any public officials whose actions affect the people whose cause we delight to defend. We do not wish to misrepresent. We have been and intend to be careful not to mis-state facts intentionally. We have no desire to impute motives not warranted by actions. We regret that words have to be used that would not be necessary if our opponents would be half-way decent. We have some conception of the power of the press for good or for evil. We aim to promote truth and to combat error. And we purpose to continue the battle, as best we can, facing the odds that are arrayed against principles to which we are devoted and a people who are defamed and oppressed, let the consequences be what they may.

It will be found that the press cannot be muzzled. Discrimination against one editor will not intimidate others, if they are made of the proper stuff. Neither will an assault upon men shut down the papers that vindicate the right. Free thought cannot be stifled. Free speech cannot be suppressed. The liberty of the press must be maintained. License and libel may be and ought to be punished. Journals ought not to be free to deal in abuse any more than individuals. Accusations that cannot be sustained by evidence ought not to be made by any one. Papers should be responsible for their utterances as well as persons.

And that which will apply to the press should also apply to the judiciary. Let moderation govern their speech. Let impartiality be their guide. Let religious and political bias be excluded from their decisions and their charges. And let them and other Federal officers cease from conduct that provokes strong criticism, and the press in Utah will be milder in language, more conciliatory in tone, and more conducive of harmony and peace. But while present conditions exist, we expect to wield a free pen in defending an oppressed cause and exposing and denouncing its libelous and unprincipled assailants.

## ANOTHER PERSONAL LIBEL.

THE organ of the male lechers and defender of assassins has another long tirade to-day in further abuse of the truthful letter to the *New York Post*, and in an attempt to explain away its numerous contradictions and inconsistent assertions in the Collin shooting case. Every fresh utterance conveys more falsehoods and libels. Its great arguments against the writer to the *Post* consist in this: He is a "Mormon," or else a "sneak," or else an "ass." That settles him of course. His letter must be untrue, his statements incorrect. That is a *Tribune* argument, and the *Post* correspondent knows now his case is decided in the most gentlemanly ("American gentlemanly") and conclusive manner.

Its latest fabrication on the Collin matter is that "the Bishop of the Fifth Ward in this city" "has in a most prominent part of his anatomy one of Collin's bullets." It is needless for us to say that this lie, for is it not published in a *Tribune* editorial? We are called upon to make this "clear if it is untrue." That is only another exhibition of *Tribune* impudence. We are perfectly able to prove the story untrue. But it is the business of those who have trumped up the charge to substantiate it. Let them produce the proof. All the public has now is the bare word of a sheet whose assertions are usually considered sufficient to disprove its charges. Where is the evidence that Bishop Seddon has been shot anywhere or by anybody, and who are the witnesses? The *Tribune's* common method is to trump a story of this kind and then put the burden on the shoulders of "respectable informants" who never appear and whose names are never cited. The story is only another added to the long list of falsehoods and prevarications it has told in this Collin case.

Some person libeled in this manner ought to test the willingness of the courts to punish for libel anyone but a "Mormon" offender. It is of little or no use to sue for damages. A criminal prosecution is the proper thing. In this case the assertion has been made that four persons attempted to assassinate Collin, the spotter. It is now asserted that two of them were shot and that

one of them is the Bishop of the Fifth Ward. This is tantamount to accusing that gentleman of an attempt at assassination. We happen to know that the proofs of the falsehood of this charge are complete. The story is a malicious lie, its publication is a libel. If the thing that publishes it says the information was obtained from other sources compel the production of the sources.

Another characteristic piece of impudence is the *Tribune's* "three-hats" story. Its latest explanation is that one hat was claimed by McMurrin, another is Collin's and the third—the *News* is requested to account for! We never manufactured any yarn about three hats; they were a *Tribune* production. Let its scribes account for their own hats. They have a peculiar theory on the hat question. It is that if a man usually wears one kind of hat and happens to put on another, that is a "disguise," and if he gets into trouble it is a proof that he intends to assassinate somebody! Which quality do those scribes exhibit in the strongest degree, mendacity, impudence or assinnity?

"To charge that the Gentiles of this city are not as free from crime and vice as the same number of people are elsewhere, is simply brazen mendacity."—*Salt Lake Tribune*.

"That being the case what a corrupt generation the present must be! Vide details of lasciviousness proved against Vandercook, Lewis, Bush, et al., and the 99 out of every 100 non-"Mormons" in this city shaking in their shoes lest their names are "on the list!"

"Senator Edmunds has decided to push his bill in the Senate which repeals the church law in Mormondom. Its provisions will confiscate the church property in Utah Territory."—*Dillon Tribune*.

It is better to be a "Mormon" than a thief. And he is a thief who steals the property of another, even though that other may be an adherent of an unpopular religion.

"The decision of the United States Supreme Court, in the appeal of Angus M. Cannon, has knocked the last prop out of the polygamous Mormon structure, and the beastly polygamists must obey the law of the country."—*Dillon Tribune*.

The Latter-day Saints are not in the habit of fellowshiping "beastly" polygamists; the honor of doing so is reserved for their enemies, such as the *D. T.* editor, who howl "immorality" from their cesspools of iniquity.

"Judge Zane correctly charged his Grand Jury to cinch, if possible, every keeper of a place of prostitution and the frequenters thereof. This is a move in the right direction and should have been made years ago."—*Southern Utah Times*.

Oh, yes, Judge Zane's instructions on that point were all right, but the grand jury didn't "move" worth a cent. We cannot be coaxed into believing that they want to punish men for such gross immorality until they do something.

"Polygamy and unlawful cohabitation are for the gratification of lust."—*Judge Zane*.

When applied to plural marriage as taught by the "Mormons," that assertion is totally and unqualifiedly false.

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