

REMINISCENCE OF EARLY DAYS OF LOUISVILLE

The Most Unique Trial in the Annals of Cass County, Where a Preacher Brought All to Tears.

Almost a quarter of a century ago a noted and somewhat famous lawsuit was tried at Louisville, Neb. The high and leading characters of plaintiff and defendant created general and widespread interest. At that time Louisville was among the leading cities of Cass county. It had a pottery, fashioned after that of East Liverpool, O., and was manufacturing as fine earthenware as could be made in any part of the west. In fact, some experts pronounced some of its wares superior to any manufactured at the Ohio plant. Louisville also had many business houses that were doing a most lucrative business.

Among these were Fox & Glover, Seth F. Rockwell, M. Peterson, Boose & Co., general merchandise; Walter Cutforth, hardware. There were a number of other stores and also saloons. But at that time the place had no church organization and no building of any denomination in which to worship. As if by chance, the famous chaplain, Rev. Benjamin F. Diffenbacher dropped in on Louisville. He delivered his initial sermon. It captured the Presbyterian, the Methodist, the Baptist, the Catholic and all other denominations, including atheists and agnostics.

It did not seem so much because of his masterly sermon, but because of his matchless prayer to the throne of grace. The prayer seemed irresistible. It seemed to catch everybody, including the most pronounced atheists. A church organization was soon effected. It was the "First Congregational church of Louisville, Neb.," and included the best men and women of that place. Every one who believed in "doing unto others as they would have others do unto them" was taken into full church fellowship. The membership became large and a church edifice was necessary for a place of worship. Subscriptions were liberally given and a large sum raised for the purpose of erecting the "first church building in Louisville." In addition, a handsome sum was subscribed for Rev. Diffenbacher if he would remove from Nebraska City, Neb., where he and his estimable family were then residing, and become Louisvillians. For a number of months Mr. Diffenbacher and his estimable wife had been in the habit of driving overland from Nebraska City to Louisville, where, about every two weeks, the former would preach, either in the school house or at private houses.

Trouble in the Sky.

While on these trips to Louisville it was necessary for the preacher, his wife and team to be taken care of by some friends in Louisville, and these friends at that time were universal at that place. Among these friends were Mr. and Mrs. Walter Cutforth, one of the best and foremost families of that place, and whose hospitality was one of their most distinguishing characteristics. Mr. and Mrs. Cutforth were not members of the new church organization, but were earnest and sincere friends in the upbuilding and advancement of that religion which elevates and ennobles Christian civilization. Their hospitality was free to any and all denominations who had this general Christian object in view. It was for this reason that their hospitable home was open to Rev. and Mrs. Diffenbacher, who had, on many occasions, partaken of their hospitality. But a crisis finally came. The new church edifice was nearing completion. Disensions had arisen in the church organization.

One member, for many years a pronounced infidel, had attempted to resign from the church, but was informed that he could no more resign from a church organization nor voluntarily withdraw therefrom than he could resign and withdraw from the torments of hades, should it get too hot, in case he were sentenced to that world of torment.

His resignation was not accepted, but the writer is informed that this would-be resigner yet lives in the enjoyment of excellent health and is still a member of "the

First Congregational church of Louisville."

The great interest in having a church building and a resident pastor in Louisville had, months previously, induced Mr. and Mrs. Diffenbacher to leave their comfortable home at Nebraska City and to locate at the former place. They were bona fide citizens of Louisville, and as such became the foremost citizens of the town and did much toward the elevation of the place, morally, spiritually, financially and socially. But another crisis came—there were a number of delinquents to the preacher's salary.

A number who had subscribed had overlooked the matter of payment—several hundred dollars were in arrears. Among these delinquents was the pastor's old friend, Walter Cutforth, who died a number of years ago at Louisville. The church trouble had tended to "disorganize," rather than "reorganize." At that time both pastor and laymen were in a fighting mood. The preacher wanted his salary and was entitled to it. He had earned it by hard work and Louisville profited by and from his work. Cutforth had, by his subscription, agreed to pay \$10 per year toward the preacher's salary.

The subscription had been running nearly two years and only about \$2.50 paid—there was about \$18 due. Diffenbacher threatened suit before John Chase, esq., of Weeping Water, then justice of the peace, and a member of the Congregational church at that place.

Old Friend Sues Pastor.

An extended correspondence passed between the two belligerents, some of which was on postal cards, concerning the matter in dispute. Cutforth threatened to convert the chaplain into an unrecognizable mass of degenerate alleged Christianity. The chaplain, with equal vigor, said unto Cutforth, "pay unto me as ye would have others pay their just bills unto you." The crisis was finally reached, through J. C. Newberry, esq., then a leading attorney of Louisville, Cutforth commenced a civil suit against the chaplain.

The basis of Cutforth's claim was unique and could only find lodgement in the brain of such an energetic and progressive attorney as Newberry. It was based upon what was supposed to be the interchangeable civilities of modern Christian life, although a great deviation from some of the customs which prevailed among the primeval races.

Cutforth's suit was based upon the value of board and lodging for the chaplain, his wife and team during the time Diffenbacher traveled from Nebraska City to Louisville, as an itinerant preacher, to preach to the repentant and unrepentant of that village. As a matter of pure Christian and common brotherly love, the chaplain and his most estimable wife had stopped with Cutforth and wife during these visits, partaking of the well known hospitality of the latter. This included board and lodging for man, wife and team of ponies. Lawyer Newberry had pondered long over the matter, and finally concluded that Cutforth and wife could not, in law, "give something for nothing," and therefore had a good cause for action against the preacher for board, lodging, etc.

Accordingly he commenced suit before George C. Cleghorn, esq., then justice of the peace of Louisville, for \$13.25 for board and lodging due from the chaplain to Cutforth. The case was commenced in July, 1879, and the cause called for trial in the new Congregational church building at that place, then only partly constructed, during as hot a day as ever favored vegetable growth in Nebraska. The new church building was jammed with men and women. For miles out in the country men and women had come to hear the most celebrated case ever tried in Cass county, if not in Nebraska. There were partisans on each side. In fact, public sentiment was about equally divided.

Diffenbacher, as an answer and set-off to Cutforth's claim, first, denied liability for the board bill; second, claimed that Cutforth owed him on subscription to salary to the sum of \$18. Plaintiff Cutforth and his attorney had become distrustful of Judge Cleghorn and demanded a jury. The court granted the request and a jury, composed of five of the best men in Cass county, was finally selected. This jury was composed of Ben Ward, foreman; A. Sherman, F. Stohliman, Thomas Erwin and James O. McClain, tried to the five by agreement. On a hot August morning the case was called for trial by Justice Cleghorn. It was supposed that Attorney Newberry would alone

represent the plaintiff and Basil S. Ramsey, late judge of the Second judicial district, would represent the defendant preacher.

But when the case was called for trial, to the amazement and consternation of defendant and his attorney, Hon. James E. Morrison, then one of the leading attorneys of Plattsmouth, walked into the court room (church edifice) as one of plaintiff's counsel. With the coming of Morrison it looked like a black Friday for the preacher, his counsel and all of his friends, for Morrison was known throughout the county and state as one of the most successful advocates at the bar. The case, however, was finally called by Justice Cleghorn, who, by the way, was one of the most conscientious judges that ever sat on the bench.

Has to Fight to Pray in Court.

Chaplain Diffenbacher, the defendant, interrupted the erstwhile proceedings of an ordinary court. He insisted on opening court with prayer. In an instant Cutforth's lawyers were up in arms, objecting to such an unheard of proceeding. Morrison protested that he never knew prayers to be offered in a court of justice, that they were only tolerated and allowed at the family altar, the church, the communion, at funerals and at the conversion of sinners—that he, especially, had never committed any sin and had no need of prayer. Newberry followed in the same strain and urged upon the court that it was useless and nonsensical to give "something for nothing." Ramsey, on the part of the defendant, urged that the proper thing to do was for the defendant, although a preacher, to open court with prayer. He cited the example of the supreme court of the United States where-in court was always opened by the most solemn invocation.

The court finally ruled on the matter of prayer. Diffenbacher was allowed to beseech the throne of grace. He prayed as no other preacher can pray. He prayed for everybody, especially for all parties concerned in the litigation before the court. An especial invocation was uttered on behalf of the plaintiff and his attorneys—the attorney from Plattsmouth receiving an especial plea for mercy and forbearance for his many sins, and especially for the one he was about to commit. This prayer was characteristic. It came from the heart and went to the heart. There was scarcely a dry eye in that great audience when the prayer was concluded. Even the attorneys for the plaintiff were visibly affected. Newberry had broken down long before the final "amen," and seemed to weep most bitterly while seated directly in front of the pastor. Morrison had, with most remarkable nerve, preserved his urbanity and statu quo until the pastor invoked divine guidance upon the Plattsmouth bar and especially upon those who left that city to try to defeat an honest claim of a faithful Louisville preacher. It was then Morrison seemed to collapse; but his wonderful nerve bore him up and he escaped with a few contrite tears. The jury was duly impaneled. Newberry opened the case for the plaintiff, insisting that there was no law that would warrant and justify plaintiff giving board, lodging, etc., to defendant for nothing; that if such were the law it would establish the principle of "giving something for nothing."

Ramsey stated the defendant's side, insisting that plaintiff had received not only a good, but most valuable consideration for the board and lodging. Plaintiff and wife had invited defendant and wife to visit and lodge at the former's hospitable home, and the latter had repeatedly accepted such invitations. Defendant had sacrificed—given his time and more or less labor connected therewith. Moreover, defendant and wife had contributed of their social amenities of personal friendship, of their high Christian education, as well as of their advanced scholarly attainments for the benefit of plaintiff and his family in the latter's home.

All these constituted, as counsel for the defendant claimed, not alone a good, but a most valuable consideration for the board and lodging. The case was finally put on trial to the court and jury. Two days were consumed in taking testimony and argument to the jury.

The church building was filled to overflowing with women and men during both days. After the testimony was closed and Newberry had made the opening argument to the jury, Diffenbacher insisted on addressing the court and jury in his own behalf. Then heated controversy arose between opposing counsel. Plaintiff's

counsel strongly insisted that as defendant was no lawyer and had taken no part in the examination of witnesses he therefore had no right as a matter of law to address the jury. The defendant's counsel as strong urged that defendant in no case was barred the right to speak in his own behalf. The court overruled the objection and Diffenbacher was allowed to address the jury. His address was made in a most beautiful phraseology; no words of censure or abuse of anybody. Kind words were spoken of plaintiff, his wife and lawyers, and in fact everybody.

Preacher Moves the Jury.

No apology, argument nor excuse was made for himself. The merits of the case before the jury were not discussed at all. But as a beautiful word painting on a high plane of mortality and Christian excellence that address was perhaps never excelled on the rostrum, in the pulpit and certainly never in a justice of the peace court in Nebraska. Ramsey followed, making the main argument for defendant, after which Morrison closed for plaintiff in iridescent flashlights of forensic eloquence. His address was masterful and the pyrotechnical invective against that awful prayer with which court was opened, threw Dante's Inferno into the shade. The case was finally in the hands of the five jurymen. The jury deliberated long and carefully over the peculiar issues presented in the case. Finally it seems this body resolved itself into a sort of arbitrating peacemaker. They reported an agreement and were directed to report to the court. They fled into the improvised court room—names were called by the court and all were present. Ben Ward, the foreman, arose to hand to the court the verdict. The court read the verdict, and when heard by the big audience everybody was surprised—in fact astonished—dumfounded. The verdict was a regular "double-header." Each party was awarded a verdict for \$10 and each to pay his own costs.

Exceptions were promptly taken by defendant to entering judgment on such a verdict. Exceptions were overruled. Defendant alleged error and promptly filed his petition in error in the district court at Plattsmouth, praying for a reversal. This petition was heard by Judge Stephen B. Pound, then presiding judge of the Second judicial district. It only required a short time for that able jurist to decide that such a "double-header" verdict could not stand in his court, and the case was promptly reversed and set down for trial denovo in the district court.

The time for trial approached and was soon to be called. Defendant had been a fighter from childhood. He had served the union cause during the civil war. He had fought the establishment of a southern confederacy with signal bravery, and for years had fought a more grievous and inveterate enemy of mankind—that of sin. He was ready for a reversal of the board bills. But plaintiff as well as his attorneys had collapsed. They could not face a trial in the district court, where a most conscientious and able jurist would lay down the law. Plaintiff made overtures for settlement and finally capitulated—in fact, surrendered by paying Chaplain Diffenbacher's salary due on subscription and all losses in the case, which amounted to a very large sum. With such a record in a justice's court in Cass county, Nebraska, it is not surprising that Chaplain Diffenbacher uttered that famous prayer in the Nebraska house of representatives some years ago, for the repose of the soul of Senator Taylor.

The above report of the famous Louisville lawsuit is taken from the Omaha World-Herald of date May 22, 1904.

Walter Cutforth, the plaintiff, and Chaplain Diffenbacher, the defendant, have been dead for a number of years, but their widows still survive. Mrs. Cutforth still resides in Louisville, Neb., and Mrs. Diffenbacher resides in Omaha.

Pleasant Callers.

J. W. and G. A. Murdock of the vicinity of Nehawka, drove to this city this morning to attend to some business matters. While here J. W. Murdock called at this office for the purpose of renewing his subscription to this paper, and G. A. Murdock to have his name enrolled on our large Semi-Weekly list, which we were more than pleased to do.

C. E. Kirby and wife departed this morning for Omaha, where they will spend the day.

WORK ON THE RIFLE RANGE BEGINS TO-DAY

Some 250 Soldiers Expected to Arrive This Afternoon to Start Work.

The work on the rifle range is to start today, when a large body of men from Fort Crook will begin the work of clearing off the land and placing several large wells there for the use of the soldiers who will be assembled there for practice later on. Next week it is understood a very large number of men will be sent here and the work will be pushed along rapidly.

This certainly sounds good to the citizens of Plattsmouth, as it means that a great many strangers will be in this city more or less during the next few months, and we should try and show them what a real live town looks like. It is estimated that about 250 men will compose the first party and these will be added to later on from various forts in this section of the country. Now we should start improving the road that leads to the range before the cold weather starts in.

REV. ALLEN G. WILSON RECTOR ST. LUKE'S CHURCH

Comes Highly Recommended by Both Bishop Williams and the Bishop of Salina, Kansas.

The vestry of St. Luke's church of this city some time ago extended a call to the Rev. Allen G. Wilson to the rectorship of the church, and have just received an acceptance of the same. Rev. Wilson comes to this city most highly recommended, both by the Bishop of Salina, Kansas, and Bishop Williams of this diocese. He comes here from the missionary field in Kansas.

The Rev. Allen G. Wilson is a native of New York state and was born at Poughkeepsie-on-Hudson, receiving his early education in private schools of that city, and after becoming a candidate for holy orders, continued his studies at the Kansas Theological school, St. Andrew's Divinity school and Hobart college. Rev. Mr. Wilson in the past has served as curate at St. John's church, Milwaukee; St. Paul's Pro-Cathedral, Springfield, Illinois; city missionary of Springfield and secretary to the bishop, and is at present general missionary of the northwestern Kansas counties-diocese of Salina.

The new rector has had large experience in institutional work of various kinds in the church and without, and is considered a strong preacher by those who know him.

Will Speak at Park Friday.

I am a missionary of the Reorganized Church of Latter Day Saints, sometimes called Iowa-Missouri Latter Day Saints, to distinguish them from the people in Utah, who have a similar name, but more commonly called "Mormons." Our publishing house and headquarters are located in Lamoni, Iowa, and Independence, Mo. I will deliver a lecture in the city park on Friday evening, which will be of a historical nature, showing the origin, development and faith of the church as organized in 1830, and special attention will be paid to those who left the church at Nauvoo, Ill., in 1846, under the leadership of Brigham Young, and went to the neighborhood of what is now Council Bluffs, and organized a new church, giving it the same name as the church organized in 1830. We want our fellow citizens to know the difference between our people and those of Utah, of whom the federal and state courts have said are deserters, seceders and apostates from the first church bearing the name of Latter Day Saints.

Elder Edward Rannie, Independence, Mo.

Home From the Golden State.

Mrs. C. C. Wescott and son, Mason, who have been enjoying a visit of two months with relatives at Los Angeles, San Francisco and other Pacific coast points, returned last evening on No. 2. Mr. Wescott and Alice Louise met the travelers in Omaha and returned with them.

The Murdoch Estate Large.

Petition for the appointment of an administrator in the estate of the late John Murdoch of near Nehawka was filed in the county court yesterday. The estate is quite a large one, the personal property amounting to some \$40,000, while the real estate has a rental value of \$500 per annum. The petition asks for the appointment of John W. Murdoch as administrator of the estate.

MIKE BAJECK OF THIS CITY VERY HIGHLY HONORED

Selected as a Delegate to International Cigar Makers' Convention at Baltimore.

Saturday afternoon Mike Bajeck of this city departs for Omaha, from which point he will go over the Rock Island railroad to Baltimore, Maryland, to attend the convention of the International Cigar Makers' union. This convention of the union is the first they have held for sixteen years, and consequently they will have to take action on many matters of vital importance to the cigar making trade, among which will be establishing a Cigar Makers' home, which will probably be located in the west, and in that event we hope Mr. Bajeck will be able to secure the home for Plattsmouth.

In the selection of Mr. Bajeck, the city is highly honored, as only three delegates will go from this state—one from Omaha, one from Lincoln and our fellow citizen, Mr. Bajeck will represent two local unions in the convention, No. 351 of Mankato, Minn., and No. 276 of Plattsmouth.

The convention will be composed of 400 delegates, representing 50,000 members and 480 local unions, and is one of the greatest gatherings of organized labor that has been held in recent years. It is the expectation that the convention will have to remain in session for at least three weeks, owing to the great amount of business to be transacted. At the last session it required eighteen days to complete the work, and this time it will be even greater.

Mr. Bajeck will make an able and worthy representative of the cigar makers at the convention, as he has been a courageous defender of the union principles, and as a workman does not possess a peer. He has been a member of the union for twenty-six years, having joined when only 17 years of age, and is one of the youngest members in age, but among the veterans in years of service in the union's ranks. Mr. Bajeck learned his trade in this city, in the factory of Matt Schlager, finishing up in the factory of George Stamm. He then worked in various factories throughout the west, returning to this city in 1893, where he has since remained. He was for three years foreman of the Pepperberg cigar factory here, and at the present time is employed in the factory of Ptak & Bajeck, the manufacturers of the Acorn cigars. Mr. Bajeck has been serving as secretary of the local union for the past four years.

MRS. EDNA MOCKENHAUPT SUBMITTED TO OPERATION

The many friends of the Tighe family in this city were greatly shocked this morning to learn that Mrs. Edna Mockenhaupt, daughter of Mr. and Mrs. John Tighe of Manley, had been taken to Omaha yesterday, where she underwent a very serious operation at one of the hospitals there. At the time the result was apparently successful and it is to be hoped Mrs. Mockenhaupt will recover from the operation and soon be able to return to her home, where hosts of anxious friends await her.

Dance at T. J. Sokol Hall.

There will be a social dance given Saturday evening, September 21, at the T. J. Sokol hall. Music will be furnished by the M. W. A. orchestra and a good time is assured to all who attend. The public is cordially invited to attend.

The M. W. A. orchestra leaves tomorrow for Weeping Water, where they will furnish the music for the semi-monthly dance at the Philpot hall in that city.