Oregon Spectator

"Would the [illegible] way."

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For the Oregon Spectator.

Mr. Editor—I deem it due to myself, to trouble you with an answer to the last production of our fellow citizen, G. W. Bell. I did not deem it necessary or proper to make any reply to the first communication published by that gentleman, as there was nothing in it relating to myself, except indeed an unkind allusion to a "certain attorney," could be so considered. If intended for me, it was undeserved; but the allusion would have passed unnoticed by me, had not Mr. B. in his second communication attributed to me opinions, I neither expressed nor entertained. Our personal relations had always been of the most amicable character, and I had ever entertained for Mr. Bell the most sincere respect. The duties of my profession, it is true, had thrown me upon the opposite side in some civil suits, which that gentleman had with others; but I knew he was a gentleman of too good sense and liberality, to esteem that a ground for ill feeling. I could therefore only attribute his unmerited expressions, to excitement, which had temporarily thrown him off his guard. But from whatever cause his unkind expressions may have flown, my principles teach me to return good for evil, and in answering Mr. B. I shall speak of him in those respectful terms, due to an honest and intelligent man. Mr. B. has not mentioned my name in either of his communications, no doubt from a sense of the impropriety of dragging a mere private individual before the public; but he has so shaped his productions, that, taken in connexion with the published proceedings of the meetings to which allusion is made, they have left no doubt upon the public mind, that I am the individual intended. As this is the construction placed upon his productions, by the community, and as the subject, in itself, is worthy of consideration, I shall, with your permission, give my views through the medium of your paper, and when I shall have done so, I am well satisfied that Mr. Bell will see that there is not so great a difference in our opinions, as there might seem to be; at least there will only exist that difference of opinion, which might well exist between gentlemen of honesty and intelligence.

In the first place then, without casting the slightest imputation upon Mr. Bell's candor, I am constrained to say he has misunderstood my true meaning, and has attributed to me sentiments which I did not express nor entertain. Speaking of the Orator of the last evening, Mr. Bell says, "Although he admits this not to be a general rule, yet, says he, cases frequently occur where communities become so corrupt that the assumption of this principle is necessary; when the people are justifiable in throwing aside the law, and taking justice into their own hands, and after citing a number of cases to prove this position, such as Mormons of Missouri, gamblers of Vicksburgh, horse thieves of Missouri, counterfeiters of Missouri, &c., he says of the case then under consideration, this is probably one of those cases where the full assumption of this power is necessary," and thence Mr. B. concludes that I paid but a poor compliment to the virtue of this community. Now you, Mr. Editor, will remember that the ground I took was, that a *few* corrupt persons in a community, under special circumstances, might be so situated, that they could set at naught all principle of justice, and the *law* could not reach them, nor afford *any* remedy; and the instances I gave, as stated by Mr. Bell, show my meaning. I went into an argument to show, that every *resident* community, *must, in the very nature of things*, be honest, for the plain reason, that all property was the result of labor; and that no considerable portion of any *settled* community could live by stealing, as the *business* would be ruined by too much competition. I expressed my unbounded confidence in the integrity of our community, and expressly said that I would, in all public questions, submit to the will of the majority. In relation to the case which Mr. Bell supposes was under consideration, I was careful to express no opinion. In reply to one of the speakers, I disclaimed all reference to him or his case. As far as I was concerned, I was only for discussing a general principle, and not particular cases.

The essence of the principal position of Mr. Bell, as insisted upon in his last production is this, that there is no legal or just way of amending "the present very equitable and just land law," as he calls it, except in the way pointed out by the Organic Law. Now this I think is an error. That law provides that "*any person*" in Oregon may hold 640 acres of land by complying with certain conditions therein expressed. This gives every man, woman and child, white, black, or red, the right to a claim of 640 acres, without regard to age or sex. Now, if our community have not availed themselves of this law to its full extent, it is only because they did not consider it so "equitable and just," and were restrained by an honest regard to the great principles of justice. Suppose that the people of Oregon had taken up claims for themselves and children, according to this law, what would the Emigrants now coming in have said? They would have found all the country taken up, and they would have said we were the most selfish and corrupt community on earth. Still it would have been legal. Some few persons have taken up claims for their children under this law, as I am informed; and suppose soon after the adoption, the community had become convinced, that a large number of persons would avail themselves of its provisions, so as to inflict upon our country an injury sufficient to produce civil war, then *must* the people of necessity wait the slow process of amendment mentioned in the law? The evil would have *arisen before* the law could be amended. This land law your readers will remember is a part of the Organic Law, and only amendable under the provisions of that law, if Mr. Bell's position be correct.

Again, it is the opinion of many persons, and may be so decided by our Courts, that all persons who had made their claims *before* the existence of the present Land Law, and who had complied, in all honesty and good faith, with all the Land laws *in force at the time*, so as to have acquired under those laws a full and perfect title as far as Oregon can give a title, must still record their claims *over again*, and on failure to do so, they are liable to be taken from them, or to use our technical term, *jumped* by any one. Now I do not say that this is the fair construction of the Land Law, nor do I pretend to intimate what the decisions of our Courts may be; but I do say, in all candor, that if this construction be correct, then the law is a palpable violation of the most sacred principles of justice and of civil liberty, as understood and believed in every civilized country in the world. The moment this is determined to be the law, that moment at least three fourths of the claims made before the present Land Law existed, and upon which our citizens have expended their honest sweat and toil, may be legally jumped; and the labor of years pass into the hands of others without money and without price. Now in this case is there no remedy? Mr. Bell would say amend your Land Law, in the ordinary way. Before that could be done, the evil would have occurred and your government perhaps upset, or your people engaged in civil war. I presume Mr. Bell is a good friend to peace, and I know I desire to be, but we differ in the *mode* of attaining the same end. I maintain that the principles of government laid down in the Declaration of Independence, and the principles admitted by Mr. Bell, give the people power over the *subject* and also over the *mode*. If the people have the right to alter, change, or abolish their government, they have, for the self same reason, the power to choose the *mode*, in which they will accomplish it. It is true the mode of amendment provided by the Organic Law should be followed as a *general rule*, but if a case should occur in which the impending evil is not only great in itself, but would overtake us before we could obtain any relief in the ordinary slow mode of amending the Organic Law, then the people have the right to adopt a more speedy mode of amendment, *and of all these questions they are the competent judges*. And when I say they have the right, I mean the legal right, not that a few can make such amendment, but a majority of the whole people. Now as I did not pretend to give my opinion as to every thing before the meeting, but mainly as to the abstract right of the people to change their laws, I will say that should such a case occur as I have supposed, and the danger was such as to demand more expeditious relief than could be had in the mode pointed out by the Organic Law, I would go for a convention to be called immediately to form a new Constitution. But at the same time I must say that the people have the right *in any mode* THEY may deem just, to amend the law. No doubt they would so frame their laws as to give all a fair hearing, before any man would be decided to be in the wrong. I for one, would be certain to go for a fair hearing in the case supposed.

The very principle I am contending for has been put in practice in Oregon; and the very Land Law, called by Mr. Bell "very equitable and just," originated in that way. You will no doubt remember, Mr. Editor, that the old Organic Law made no provision for its amendment, but upon its *face* was to be perpetual; at least until the United States Laws should be extended over us. But perhaps Mr. Bell will say, that where there is *no mode* of amendment pointed out, then the people may adopt *any mode*. This is certainly true, *but it is equally true*, that where *the mode* pointed out, amounts to *no remedy at all, it is precisely the same as if there was none.*—Every people surely have some efficient mode of removing insupportable evils; and of that mode, and when it is to be exercised, they must judge; although they may and often do judge wrong. It is an evil attached to fallible man, and belongs to every thing human.

Now it is evident that the doctrine I lay down does not lead to what might be termed "mob law." A mob, as I understand it, is the assemblage of a few persons at a particular point, and not the action of a majority of the *whole* community. As a general rule mobs cannot be tolerated in any community. But it is hard to lay down a general rule without a *possible* exception. There may exist cases of such a peculiar character, that there is absolutely no remedy at all, except force. I will put a case. The road that leads from St. Louis to Liberty in Missouri, passes through some poor, sterile counties, susceptible of sustaining but a small population.—The road, from the geographical situation of the country, must pass that way. Now suppose an expert robber, connected with a large band, should take possession of one of those counties with his allies, so as to elect the sheriff and all the justices of the peace. Suppose these men then should rob every traveller that passed that way. You could not punish them acording to law. It is a fundamental principle of law, that a criminal must be tried and convicted in the county where the offence was committed, unless he obtains a change of venue. The State cannot take a change of venue. Now if such men, in such a situation, had nothing to fear but the *law*, I confess I cannot see any possible way to correct the evil, unless some other means were resorted to. If any legal means could be suggested by any one, I would always prefer such. I believe Mr. Editor, that all human institutions are *imperfect*, and as such, that there *may* exist, in some very peculiar cases, an insupportable evil, that the law cannot reach.

I concur with the meeting in the conclusion to which it came. I was not at the first meeting. I understood the general object of the meeting to be, to call the attention of the people before hand to a state of things that would perhaps happen. For one, I believed it necessary to the preservation of peace, that some peaceable remedy should be suggested and followed out, in the event that such a state of things should occur. I was, and am yet well satisfied, that unless a peaceable remedy could be had there would be a resort to violence, and that men would not submit to see themselves injured to so great an extent, without resistance.

[illegible] H. BURNETT.

[illegible]

The meeting [illegible] calling Rev. Hezekiah Johnston to the chair, and C. W. Shane to act as secretary—when Mr. J. L. Meek gave a timely and very appropriate address, followed by some remarks by several other gentlemen.

The *pledge* offered to the meeting was followed by 36 signatures.

On motion, the following gentlemen were appointed to draft a constitution, viz: Messrs. Kilborn, Lovejoy, and J. L. Meek.

On motion, Messrs. H. Johnston, Meek and Welch, were appointed to address the next meeting.

On motion, the meeting adjourned to meet on Saturday evening the 16th inst., when we will look for all of the boys to come out and give us a lift. Remember, two weeks hence—come one! come all!!

H. JOHNSTON, *Ch'm.*

C. W. SHANE, *Sec'y.*

According to previous notice, the second meeting of the WASHINGTONIAN TEMPERANCE SOCIETY was held in the City Hotel on Saturday evening, September 18. The meeting was organized by calling Wm. K. Kilborn to the chair.

The committee reported a constitution, which was adopted.

The following officers, for the ensuing year, were elected, viz: J. L. Meek, *president*; J. R. Robb, *vice president*; C. W. Shane, *secretary*; Wm. K. Kilborn, *treasurer*.

After which, Mr. J. L. Meek, Rev. Wm. Roberts, Capt. Gelston and Judge Thornton, addressed the meeting. The chairman then read a communication from Mr. Jos. Robinson relative to his own experience, and advocacy of the temperance cause.

On motion, Messrs. J. L. Meek, Kilborn and Roberts, were appointed a committee of vigilance.

On motion, the ladies of this city and vicinity were invited to sign the pledge, and cooperate with us.

On motion, the secretary be requested to invite the adjoining counties to form societies in co-operation with this society.

On motion, Messrs. Thornton, McLaughlin, and Abernethy, were appointed a committee to provide a regular place of meeting, and obtain funds for the purpose of defraying expenses.

On motion, the secretary was requested to furnish a copy of the proceedings of this meeting for publication in the Oregon Spectator.

On motion, the meeting adjourned to meet on Saturday evening, October 9.

WM. K. KILBORN, *Ch'm.*

C. W. SHANE, *Secretary.*

WAR STEAMERS.—A letter from Washington states that the secretary of war has appointed and called together a Navy Board, on the subject of the war and mail steamers authorized by the late congress. The board consists of commodores Morris, Warrington, and Smith—constructors Grice, Hartt, and Lenthall—and engineers Copeland and Haswell; under the general direction of the secretary himself.

The object of this board is, first, to decide upon the plan of construction of the four war steamers to be built at the government yards, their models, weight of metal, form and capacity of engines, and all other details. They will also advise and determine upon the details of the contracts for the mail steamers.

THE MAIL STEAMERS.—The Washington correspondent of the New York Herald has the following, concerning the command of the government mail steamers for Liverpool:

It is understood that the secretary of the navy will require that each of the steamers of the Liverpool line shall be commanded by an officer of the navy, not under the grade of a lieutenant, otherwise he assumes that the four midshipmen set apart as watch officers in the bill to each ship, will be rather calculated to excite insubordination and mischief