

Due Process of Marriage

At one of the early elections in Davis County, Samuel Swearingen was chosen for the office of justice of the peace. He at once became one of the first men in his township. In the opinion of his neighbors he was a person of importance, and in his own mind he was destined to cut a conspicuous figure in the public life of the new county. Back in Van Buren County he had been counted a political leader. He had even served one term as Representative of his county in the Legislative Assembly of the Territory. Called upon to settle many disputes that arose within his jurisdiction, he always discharged every duty imposed upon him to the very best of his ability and usually to the entire satisfaction of the parties concerned. It was not long until he had acquired an enviable reputation as a magistrate.

One day Caleb Knowles, desiring to take to himself a wife, called upon the justice to arrange for his services in the performance of the ceremony. As this was the first time he had been called upon to exercise that particular prerogative, Justice Swearingen felt highly honored to be selected in preference to a minister of the gospel. The "business should be done in the best style", he determined,—with dignity as well as "neatness and dispatch".

In order to avoid any mistakes or blunders on his

part, which would hurt the feelings or embarrass any of the wedding party, the justice decided to reduce the ceremony to writing. This he committed to memory, and practiced until he could repeat it with ease and much dignity. He was so well pleased with his efforts that he became fully convinced that his first venture in this branch of his official duties would not only be a complete success but would in all probability eclipse the performance of any other justice in Davis County upon similar occasions. The more he thought about the matter the more thoroughly convinced Justice Swearingen became that the people ought to witness this official act so as to learn first-hand of his ability to marry folks. Suiting action to the idea, the justice proceeded to invite a number of his friends and neighbors to attend the wedding.

The wedding day arrived. With praiseworthy punctuality the justice presented himself at the home of the bride, and with him came the guests whom he had invited. But the bride and groom were not quite ready for the ceremony. And so the party waited. And while they waited, in accordance with well-founded custom and for the sake of good-fellowship, the bottle went around. The justice, somewhat shaken as the time for the ceremony approached, took several drams to brace his nerves. One of the guests noticed that every time the bottle was passed the justice would take a "snort" and then go out around the corner of the cabin. Curious to know why Mr.

Swearingen retired so often, this guest peeped through a crack in the cabin and discovered the justice reading his ceremony. There was nothing like being sure of a thing, especially such an important and public process as marriage rites.

Four or five times the justice went outside, took his written memorandum from the pocket of his buckskin pants, and carefully read the ritual. At last the bride and groom announced that they were ready to "stand up". Justice Swearingen took a final dram to brace up his nerves. But at the moment when he needed nerve and presence of mind, both seemed to forsake him. He became weak at the knees and his memory was missing. Nevertheless he proceeded with the ceremony:

"Do you, Caleb Knowles, in the presence of these witnesses, take this woman whom you hold by the right hand to be your lawful and wedded wife, promising to — to — to —"

Here he was completely stalled. In vain he rummaged his befuddled memory and cudgelled his fleeting wits. Before him stood the blushing bride and embarrassed groom — waiting for him to proceed. "I do" was on the lips of the groom and the eyes of the bride were eloquent with the same sentiment. What was it the man should promise? If only he could take a peep at the notes in his pocket, but he dared not. Had he not boasted of his ability to marry people in fine form — and he could feel the gaze of his friends fixed upon him.

At last, in desperation, "I pronounce you man and wife", he said, "so help you, God!"

Realizing that his part in the ceremony was not as successful as he had anticipated, Justice Swearingen decided to abandon this particular plan of procedure for future engagements of a similar nature. He therefore destroyed his written ceremony and concluded to resort to the "Old Blue Book", as the acts of the first Territorial legislature were termed. The "Old Blue Book" could be depended upon for the fundamentals of judicial procedure. So the justice searched painstakingly through the whole volume, but he found nothing which approached nearer his ideas of a marriage ceremony than the oath to be administered to a witness at a trial. That, he thought, could be easily converted into a marriage vow by a few slight changes to suit the occasion. Indeed, he decided that the whole ceremony could be expedited in this manner.

It was not long before Justice Swearingen was called upon to unite another couple. When the guests had all arrived and the bridal party was ready, the justice proceeded to try his new ritual.

"Do you, sir, in the presence of Almighty God and these witnesses, solemnly swear that you will take this woman to be your lawful and wedded wife, forsaking all others and cleaving to her so long as you both live, so help you God!"

The swain answered in the affirmative and the justice proceeded to administer a similar oath to the

lady. After this, "in the name of the Territory of Iowa and the United States of America, and by the authority of the Old Blue Book", he pronounced them man and wife.

All went well with the newly married couple. They were very happy. But in less than three months they parted, and the husband applied to the justice to effect a dissolution. Swearingen, having been a member of the Territorial legislature, drew up a petition asking that what he and God had joined together be put asunder by that body. As the justice was a man of much influence, the prayer of the petition was granted and the parties were duly divorced. But the justice would never admit that his nuptial rites were in any way responsible for this unfortunate outcome.

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