

Beloit, Wis., March 30, 1891.

Judge A.W. Tourgee,

Mayville, N. Y.

Dear and honored sir:

Your courteous

letter of 26th inst is at hand and contents carefully noted. Evidently the tone of my correspondence with you has sounded imperious and tyrannical rather than democratic. Whether it was intended to sound thus, I candidly question. I thank you very sincerely for your kindly advice, and shall endeavor to profit by it. I have posted on my desk lid the following: "Never use a club until all mild measures fail, and never impeach a man's integrity until you are sure your own position is without flaw." I shall endeavor to follow it closely. As regards my language toward you, if there has been anything uncourteous or any lack of respect for such qualities as you have that are worthy of respect, permit me to offer you my humble apology for such, and ^{to} assure you that I was sincere in the belief that my actions were justifiable and those of a gentleman. Permit me also to add that my convictions were not the result of a hasty jumping at conclusions, but were the result of mature deliberation. To rehearse some of the facts of the case: The first intimation that we had of your inability to fill engagement, was a telegram received Friday evening Nov. 28, stating that Judge Tourgee was unable to fill engagement, "have written".

The telegram said nothing about the possibility of your coming later in the month, and yet you were balled for the next Tuesday, and that was the opening of our course and could not be put off very long. If you had been perfectly fair under such circumstances you would have added three words saying: "or until January.", and we would have known what to do, but as it was, and your letter did not ^{reach us} ~~(get here)~~ until Monday (and could not be expected to,) we of course immediately commenced telegraphing for other talent and notified you that we could not have you later. Permit me also one word in justification of my other assumptions. Your letter of Feb. 5, made two or three positive misstatements about things that you or your agent, ought above all persons to know accurately. 1. You stated that the "contract made by my agent with you was upon the express condition that 'there shall be no claim for damages in case of sickness or accident.'" The truth is, no such condition was ever mentioned in any letter or contract. 2. You asserted that the contract I made had as one of its conditions that we "should have another date the same season of ^(we) you desired." The truth is no such thing was ever mentioned in any letter or contract. 3. You quoted me as saying that the attraction we secured in your place "was much more remunerative than (you) would have been". I do not remember the words I used, but I certainly said no such thing, for in the first place it was not so regarded by us, and 2ndly I would not have stated so and then asked you for damages when we had sustained none. I did say that we would not ask you to pay the extra expense of ~~that~~ entertainment, by itself considered, (which was some \$25 more than you would have been), because it probably brought a better sale of tickets, or more assets. That is quite a different thing from your statement. Now, Judge Tourgee, was I not compelled to believe that you were either terribly ignorant of the actions of your "agent" (and your positive statements, seemed to disprove that), or else ^{but} you were willfully false and attempting to scare me out of any attempt to secure the just recompense to the association I represented? Inasmuch as I could not believe that you were ignorant of the terms of the contract which your agent (was in the habit of making and) did make with me, and inasmuch as your telegram to me was grossly inadequate to the case, (in that it did not state when you might fill the engagement, as I supposed it would do if you had been simply sick,) I was driven to the conclusion that you were intentionally false and desirous of getting out of the scrape as easily as possible. Lest I might be mistaken, I went to one of the best lawyers in this county and asked him about the law in the case, and was told that you were legally responsible. Now very possibly I was mistaken in my judgment of your action, ^{and} I am now quite convinced that your sickness was genuine, but I fail to see any justification of the terms or the verdict of

your letter, and no reason has yet been given me for not holding you responsible for damages claimed, or for thinking that the claim is not perfectly just. As to your statement that I have attempted black-mail, I have no words with which to characterize such foolish bosh. It is certainly an assertion unworthy any judicial mind, and one that would not be made by a man who was at all confident of the justice of his assertions. I am very much surprised that a man of your standing and national reputation could stoop to such abuse as you gratuitously showered upon me. I may say that older and wiser men than I, were much surprised at your last letter to me. I might mention two or three inaccuracies in your statement of facts in the letter referred to, but it is unimportant. My threat, as you were pleased to term it, my "blackmailer's purpose to extort" as you thought it might be, was evidently lost upon you, - not because it was such, but because you chose to regard it as such. I made no rash threats, and did not try to scare or drive or force or compel, or any of the other things you mentioned, but I endeavored to give you to understand that I knew my rights in the case and knew the possibilities of obtaining justice. I will only add further, that it is a matter of little moment to me, what course you pursue, but that if a kind Providence spares you so long as is necessary, my legal counsel informs me that it will not be a difficult matter for me to obtain full damages - for even more than I have asked you to pay peaceably. It may be a little unpleasant for you to find your "grip" attached in some pleasant city, but nevertheless under such circumstances as we are placed, you will perhaps be obliged to accept it with as good grace as possible. Mild measures having been exhausted, my motto compels me to resort to the legal and lawful "club". With all due respect, I have the honor to remain,

Your obedient servant,

E. Osborne

To Judge A.W. Tourgee,
 Mayville, N. Y.