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LIBERAL CONSTRUCTIONS WANTED.

THE polygamy case of John H. Miles, appealed from the Third District Court was argued, yesterday, before the Supreme Court of this Territory, and taken under advisement by the Court. We have already given our readers the points of the case and do not now propose to repeat them. But we wish to draw attention to a plea interposed by the Prosecuting Attorney in his address to the court, yesterday, against the appeal.

The Attorney claimed that the court should be liberal towards the prosecution in its constructions and rulings on this case, because of the difficulty of obtaining direct evidence of the first marriage. He said, in effect, that if this were not done it would be impossible to prosecute polygamy successfully in this Territory, for direct evidence of what took place in the Endowment House could not be obtained, and witnesses summoned preferred going to prison for contempt to answering questions bearing on those matters.

What does the Attorney mean by this "liberal construction and ruling" on the part of the Court? Simply this: That evidence which would be counted insufficient in a civil suit, shall be deemed conclusive in a criminal prosecution. That the established rules governing evidence shall be reversed. That the failure of the District Attorney to make out a case, shall be remedied by the acceptance of testimony which would not be permitted under ordinary circumstances. That the benefit of the doubt usually given to the accused, shall be accorded to the prosecution.

The Attorney is fully sensible of the weakness of his cause. He is well aware that it abounds with errors, several of which, if viewed in the light of legal principle and judicial precedent, must prove fatal. Therefore he wants a liberal construction by the Court, the slackening of rules generally applied rigidly, a tender treatment of the extremely thin and feeble parts of his argument, and a closing of the judicial eyes to the unanswerable citations and reasonings of counsel for the appellant.

The Albany *Evening Journal*, echoing the questions of a contemporary, asks "why polygamy is not proceeded against as other crimes?" This is a very pertinent query. If polygamy is a crime, why not prosecute it fairly and honorably? Why pack a jury to secure a conviction? Why deem evidence which would be scouted in a suit for divorce, competent in a prosecution for bigamy, when the rule is that stronger and more direct evidence of marriage is necessary in order to secure a conviction than to establish grounds for a civil decree? Why ask for a "liberal construction" of the law against the defendant? Because proof cannot be obtained, forsooth, courts must give latitude to assumptions, and when the odds are greatly against the prosecutor, judicial rulings must help him out to the detriment of the accused.

Take out the statements of the chief witness against John H. Miles, and what evidence was produced that he married Emily Spencer? Even with the spiteful and eager testimony borne by that too-willing witness, what direct proof was offered of the alleged first marriage? Nothing but the extremely doubtful evidence that he had called Emily Spencer his wife. True, it was shown that at one time he intended to marry that lady as well as Caroline Owen Male. But it was just as clearly proven that he intended to marry another young lady also. But this does not prove that he carried that intention into effect. Popular rumor credited him with the double marriage for which he was convicted. But popular rumor also credited him with marrying the other young lady, whom it is certain he did not marry, but who, only about two weeks ago, was united in wedlock to a young man, a resident of St. George. The alleged marriage of the defendant to all three of these persons was telegraphed to all parts of the country, and numerous leaders were published in the most popular newspapers, commenting on the triple wedding. Rumor was mistaken in one part of this affair, and it was just as likely to be mistaken in another. Yet it was on rumor that the defendant's conviction was based, and inference was allowed to bear sway instead of proof.

The Albany *Journal* wants polygamy "treated the same as theft, burglary or arson." But are inferences accepted as proofs of guilt in trials for either of these crimes? And what would be thought of a prosecuting officer who, unable to procure evidence against an alleged burglar, was to ask the Court to make up for his failure by a liberal construction of the law, because of the difficulty in obtaining the proofs necessary to convict? and to demand for his weak cause the benefit of the doubt instead of according it to the prisoner? In an appeal case of arson, if the prosecuting officer was to ask the court to rule against the appellant, because the prosecution were unable to procure direct evidence that there was any any fire at all, would not the request excite the derision of the whole legal fraternity, and be viewed with contempt by the Court?

The proceedings in the Miles case were so irregular, and there are so many points involved therein which are of vast importance to this community that, should the Supreme Court of the Territory affirm the decision of the lower court, as is quite probable, we hope it will be carried up to the court of last resort. For, as the matter now stands, there is no need for laws to be passed with the special view of condemning "Mormons," innocent or guilty, or of depriving them of their constitutional rights; courts can make decisions having the virtue of new legislation, and justice can be banished from the judgment seat to make way for vengeance inspired by bigotry. Let the matter be tested to the last extreme.

A NEW TIMBER LAW.

ACCORDING to a Washington correspondent of the Reno *Gazette*, "The Secretary of the Interior is worried about the matter of timber on public lands, as the present law is very unsatisfactory. A conference of western representatives was held at the Secretary's office recently and consideration of the matter postponed until next December, when a new timber land bill will probably be framed."

The present laws governing this matter are in a very unsatisfactory shape and the whole subject needs thorough consideration. A new timber law should be enacted suitable to present demands and the old statutes be entirely abolished The timber of the country should be properly protected and measures ought to be adopted for its reproduction. But settlers in newly-opened places, and especially in the regions of the Rocky Mountains, must be allowed to cut the timber absolutely necessary for building and other ordinary purposes in their respective localities, or the work of colonizing and improving these western wilds will be brought to a standstill.

The old laws, framed to preserve the timber of the country suitable for shipbuilding to the use of the Navy, are altogether inapplicable to the situation in this part of the United States, and the extension of the provisions and pains and penalties of those statutes to the conditions here, is oppressive to the people, inconsistent in principle and unnecessary to the purpose for which those Acts of Congress were framed.

The "stumpage" swindle of the past few years is now, thank heaven, swept entirely away. But great injustice still prevails. Timber must be cut for fencing and building materials, and in many places, after the hardy settler has climbed the steep rugged heights and felled the scanty timber growing on the sides of those almost inaccessible peaks, some agent of the Land Department is after him with a sharp stick, in the shape of a suit for the violation of a law framed for a different object, but interpreted to meet this case and thus work injury and hardship instead of accomplishing a public good.

We hope that before any general bill is framed to govern this important matter, the people of the West will take care to furnish Congress with correct information, as to the needs and peculiar conditions of this part of the public domain, on which such legislation may be based as will do justice to the settler, as well as give protection to the valuable timber of the country.

American merino sheep give, in some places, a very large yield of wool. Mr. R. Vanvoorhis, of the Keystone farm in Pennsylvania recently clipped from one sheep named Old Don, 32 pounds and 8 ounces, and from a yearling named Young Don, at its first shearing, 21 pounds, 8 ounces. At the same farm 200 ewes, one hundred of which were yearlings, averaged 16 pounds 4 ounces each. This is considered unsurpassed by any authenticated clip in America, and is certainly an extraordinary yield.

WHO ARE THE PERJURERS?

WE notice that some of the coast papers are astonished that President Hayes and his cabinet have been deliberating over the case of George Reynolds, who has been sentenced to confinement in prison for marrying two wives in accordance with his religion. There is no need for any wonderment about the matter. The men who stand at the head of the national affairs should be expected to act with some degree of consistency. They would show very little fitness for their exalted positions if they were to follow the example of the press. Before they decide they examine. They deliberate on the subject presented to them. Most of the editors who touch on the "Mormon" question judge without judgment. They jump at conclusions without looking into the facts. They plunge and toss at the word "Mormon" or the mere mention of polygamy, like wild bovines at a red flag. But they should not expect statesmen to play such a senseless part.

A petition signed by nearly thirty thousand people is entitled to some consideration. The case too is a peculiar one. Like all things that are connected with "Mormonism" it has been grossly misrepresented. Here is the Sacramento *Record-Union*, for instance, at this late date stating in relation to the trial that,

"Perjury was resorted to in the most shameless manner, and the defendant Reynolds was regarded as the popular champion. The conviction was secured almost by an accident, though upon the strongest possible testimony, and now that the defendant has been found guilty it appears to us that nothing should be permitted to interfere with the execution of the sentence."

The San Francisco *Chronicle* says:

"The Reynolds trial exhibited everything to the contrary of his action in taking a second wife, merely "to test" the validity of the anti-polygamic statute. Every effort during the trial was made to screen him; the witnesses prevaricated, shuffled in their testimony, and did everything but commit open and willful perjury in denying what they had witnessed and knew of the second marriage ceremony. Even the father and mother of the second bride could not be made to admit in court that their daughter was married. They 'knew nothing about it.' They were determined to know nothing, and to forget all they had ever known."

These statements are widely at variance with the truth. We defy the *Record-Union* to show wherein perjury was committed by any of the witnesses at the trial, and the *Chronicle* to prove that they "denied what they had witnessed." The fact is that George Reynolds himself furnished the prosecution with testimony that led to his conviction. He gave the names of his two wives and the dates of the marriages. "The father and mother of the second bride," instead of stating in court that they "knew nothing about the marriage" were not then and have not been in court nor in Utah at all. The *Chronicle* scribe, like other editors, writes at random on this question and if put on oath in a court of justice would either have to commit the crime which he charges against others, or confess that "he knows nothing about it."

Some of the reasons why President Hayes should fully consider this matter are that George Reynolds is not at heart a criminal; he fully believed in the divinity of the ecclesiastical law under which he married his two wives, and the unconstitutionality of the human law which declared his act to be a crime; he furnished the chief evidence which led to his conviction; he carried the case up to the court of last resort to test the constitutionality of the Act of '62; when the Supreme Court, contrary to his expectation decided that law to be valid, he submitted himself to the sentence; he voluntarily placed himself in the custody of the Deputy Marshals appointed to conduct him to the Nebraska Penitentiary, and the expense might have been saved of sending two officers on this journey, for he would just as freely have taken the trip to Lincoln with a letter of introduction to the governor of the prison and surrendered himself on the spot.

It is the people of Utah who ask the President to pardon this prisoner. He is but one out of a multitude who have acted as he has done under the same religious belief. The cause of justice will gain nothing by making him their scapegoat. His imprisonment will convert no "Mormon" from the faith that is in him. Polygamy will receive no weakening from extreme measures in this case. The "Mormons" are accustomed to harsh treatment, and coercion will not, in the nature of things, induce submission or create any extraordinary regard for those who apply the force of fetters and the argument of prison bars, to crush out a deeply rooted religious conviction. A little clemency and some showing of fairness and consideration for their peculiar belief, might have a better effect than perpetual animosity and hostility; who knows? At any rate the trial might be made. It would, we admit, be a new thing under the sun to show any regard or kindness towards the "deluded Mormons," but it would be no stretch of executive power to try its effects for once.

We endorse the movement for the pardon of George Reynolds simply as an act of fairness towards him as the victim of a sacrifice. His conviction was effected at the first trial by evidence that could not have been obtained except from the defendant. At the second trial unfair tactics were resorted to by the prosecution, and the counsel for the defence fought them, as they should have done.

It is easy to say the witnesses "prevaricated." The charge is untrue. Because persons who are subpœned in the interests of the prosecution do not testify as they are desired, they are assailed with implications of "perjury." The unprincipled wretches who make such charges or insinuations are themselves guilty of that crime, as we can prove if necessary. But is a witness required to testify of his belief, or of what he has heard from common rumor, or what he knows? If he does not know of himself the fact required to be proven, is he a perjurer because he denies having that knowledge? Would he not rather be a perjurer if on oath he professed to know that of which he only had a surmise or suspicion?

We hurl back these charges of perjury upon those with whom they originated. We do not allude to the papers from which the above quotations are made. They are but parrots repeating, without knowledge or reflection, the infamous utterances of unworthy beings steeped in falsehood and saturated with bitterness and venom, to whom truth is obnoxious, and who never allude to anything touching the "Mormons" without wilfully lying or grossly misrepresenting the facts. The "Mormon" people are bound by the principles of their religion to be truthful. They are generally so in their nature. Those who have been accused of perjury upon the witness stand in this case and others are people of veracity and undoubted reliability, and their only offence consists in not pandering to the desires of the corrupt, and not making statements on oath about matters of which they have no knowledge, to suit attorneys bent on convicting a defendant.

It is time that such accusations were met and resented. We know that the charges against them are false and we consider it extremely unfair for the press of the country to reiterate them without any evidence of their correctness. As Brother George Reynolds, whether he receives the benefit of executive clemency or not, he has acted from pure and honorable motives, and the real essence of crime is in intent. As he had no intention of wrong-doing he is innocent in the sight of God and his brethren, and we think, ought to be so considered and treated by those who hold the reins of power and authority in the government.

WHO FURNISHED THE TESTIMONY?

THE Chicago *Times* of June 15th publishes the text of the petition which was forwarded to President Hayes, asking for the pardon of George Reynolds, chiefly on the grounds that the defendant in the case voluntarily presented himself to the Prosecuting Attorney, and gave information which led to the conviction in order that a doubtful but very important point of law might be settled. The petition, the *Times* says, was presented to the Cabinet with a letter from Delegate Cannon. We clip the letter and the remarks of the *Times* upon it; with the petition most of our readers are already familiar.

WASHINGTON, June 14.—A great deal of excitement is caused in Utah by the understanding that the cabinet yesterday agreed that executive clemency should not be extended to George Reynolds, the recently convicted polygamist. Telegrams have rained in from Salt Lake to-day, asking if the sentence cannot be stayed for a few days, at least, until further appeals can be made to the President.

MR. CANNON,

the delegate from Utah, had an interview this morning with the President and Attorney General for the purpose of correcting an impression conveyed to the cabinet yesterday, by the Attorney General that Reynolds had fought the Government in this test case step by step, and had placed every obstacle in the way of securing conviction, and therefore he should not be entitled to clemency.

THE DELEGATE'S LETTER.

"The letter of Delegate Cannon which was before the cabinet meeting yesterday is as follows:

WASHINGTON, D. C.,
June 13, 18[illegible]

"*To His Excellency Rutherford Hayes, President of the United States:*

"Sir:—As I learn by telegraphic dispatch that George Reynolds, who has been convicted of polygamy in Utah, will be re-sentenced and committed to the penitentiary on Saturday (to-morrow), the 14th inst., I take the liberty of giving you my personal statement respecting the manner in which his marriage was made a test case. It happened to be at home at the time when an attempt was being made to secure a case which could be carried through the courts to the United States Supreme Court, to test the constitutionality of the act of July 1, 1862, against polygamy in the Territories. Mr. Lafayette Graham, a member of the grand jury, and others, told me of the proposal to secure a test case. The proposition struck me favorably, for it had been with me a subject of thought and conversation, both at Washington and Salt Lake City, and I hoped that it might lead to a better understanding of the vexed question. When, therefore, I was appealed to for my opinion as to the propriety of such a case being furnished, I heartily concurred therein. Several names were submitted and one was selected. Upon further inquiries it was found that his case was barred by the statute of limitations. The superintendent of telegraph at Salt Lake City, Mr. A. M. Musser, learning that we were seeking for a suitable case to test the law, came to Gen. Wells, mayor of Salt Lake City, and myself, and offered himself for this purpose. We learned that the gentleman had been married three times, and that some time after his