

If the Hiles *modus operandi* in this matter is to be permitted by Mr. Peters, the question may possibly be raised as to whether that functionary is allowing himself to be represented by an idiot or something still more dangerous and obnoxious—one who perverts his mental and professional powers to base and inhuman uses.

As presented by Mr. Rawlins, all the evidence adduced before the grand jury and the court was to the effect that the witness was the legal wife of the person against whom the investigation was directed. There was not a particle of testimony to the contrary, consequently she had a right to refuse to testify until the opposite of her statement could be proved. But the fact of her being the legal wife, as we understand it, is not even disputed. It is, doubtless, believed. Then it looks as if an effort was being made to extort illegal evidence from her by skipping the question of competency and leaping to the secondary question of the materiality of the interrogations propounded.

The point of law under which Mrs. Hendrickson sought protection is one of the most essential in the code of civilized jurisprudence. It is in unison with the principle that no accused person shall be compelled to testify against himself. The next step is to prohibit the compulsion of a woman testifying against her husband, or *vice versa*. The two are in a sense recognized as one, and the interests and happiness of one cannot be impaired without the other being affected. It is also preservative of the conjugal and family relation, on the theory that whatever tends to the dissolution of these associations is detrimental to the State. Such cases as that to which Mrs. Hendrickson is subjected must inevitably have that tendency. In our view the proceeding is purely persecutive and beyond every purport of the law.

In construing certain phases of the late national legislation against Utah, it has been customary for the courts to lay great stress upon the point that it was the demolition of a certain peculiar marital relationship that was aimed at, as it had been declared illegal. It would appear from the infamous proceeding under consideration, however, that it was the theory of Judge Henderson and Ogden Hiles that the blow was also aimed at legal marriage, and that that association should not be deemed sacred. Such would be the

tendency were their views endorsed and carried to a logical conclusion.

They will, we are pleased to be able to say, be largely isolated in the attitude they have assumed. Every honorable and upright man worthy the name can, in our view, but condemn not only the inhumanity but the illegality of the position they have taken. There is also a certain gallantry in every man who is not a coward which causes him to feel a glow of indignation when he sees the weak trampled and outraged under the feet of the strong. When the weak is in the form of a delicate woman the sentiment is deep and intense beyond expression. Thus far we know of no one who has attempted to defend the perpetrators of what we consider one of the most extra-judicial acts on record. Should any make the endeavor they ought to be quick about it, that they may be listed upon the catalogue of cravens.

CURRENT EVENTS.

The Dyer Contempt Case.

The proceedings in the Dyer contempt case came up in the Territorial Supreme Court Jan. 15 and was argued by counsel John M. Zane read from a brief reciting the appointment of a receiver in the suit of the United States against the Church, for the property of the latter, and called attention to the fact that the defendants had interposed no objection to the amount asked for by the receiver, \$25,000, for compensation.

At this point Judge Sandford interrupted Mr. Zane by asking, "What is your motion?"

Mr. Zane said it was a motion to have Mr. Dyer adjudged in contempt, in not answering certain questions regarding his course as receiver. He then read the notice to that effect which had been served upon Marshal Dyer and his attorneys.

Mr. Zane also read the report of Judge Harkness, as referee, as follows:

SUPREME COURT, UTAH TERRITORY.
The United States of America, plaintiff, vs. the late Corporation of the Church of Jesus Christ of Latter-day Saints, defendants.

To the said Court:—The undersigned respectfully reports: On the 6th day of December, 1888, the clerk of this court delivered to me a certified copy of the judgment and order of reference made by this court on the 28th day of November, 1888, and I return said order herewith, marked exhibit "A."

I notified the counsel of the parties of the place and hour, where and when the proceedings would be taken up in accordance with the order, and on the 10th of December, 1888, between the hours of 10 and 11 o'clock a. m., the parties and their counsel attended at the judges'

chamber, in the Wasatch building, in this city. Messrs. Zane & Zane and R. N. Baskin appeared as counsel for petitioners, and Messrs. J. R. McBride and O. W. Powers as counsel for the receiver and his attorneys, who in the proceedings are called respondents. I took an oath as referee, which is returned herewith, marked exhibit "B." With the consent of counsel for both parties, I appointed Frank M. McGurrian as reporter, and he took an oath of office; and the appointment and oath were returned, marked exhibit "C."

I suggested that the witnesses should be sworn before some officer authorized to administer oaths, but counsel for both parties said they had no doubt that my appointment as a referee gave me the power, and agreed no question concerning such power should be raised. Thereupon, the parties being ready, Frank H. Dyer was called as a witness by the petitioners and was duly sworn, and his examination as a witness proceeded until, under the advice of his counsel, he refused to answer certain questions propounded by counsel for petitioners, and which I ruled were within the scope of the order of reference and should be answered. Counsel for petitioners declined to proceed further in the reference unless the witness answered the questions, and the witness still declining, I held I had no power to enforce an answer by proceedings for contempt and could only report the proceedings to the court. Thereupon the petitioners formally declined to proceed, and I closed the examination. I annex and return the testimony of the witness, Frank H. Dyer, so far as taken, and including the questions asked and which he refused to answer, and the said testimony is marked exhibit "D." I make all said exhibits a part of this report.

Exhibit "A" includes the proceedings on the examination of Frank H. Dyer, excluding as far as I could by having the reporters' report reduced and recopied, the arguments of counsel. Some of the counsel desire a fuller report, and I have certified separately for counsel a copy of the proceedings including all the arguments of counsel.

Respectfully submitted,

ROBERT HARKNESS, Referee.

A portion of the testimony given before the examiner, including the questions which Receiver Dyer refused to answer, was read for the information of the court.

Mr. Zane then proceeded with his argument relative to the motion to have Mr. Dyer adjudged in contempt, the substance being that the refusal to reply was a contemptuous proceeding. He said there was certainly something peculiar about the compensation, as the receiver and his attorneys were very anxious to exclude all inquiry. This whole matter should be investigated.

Judge Powers followed, reciting the events that led up to the appointment of a referee to hear testimony upon the charges made against the receiver and his counsel and read the charges. He said that counsel for the other side proceeded