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THE OTHER SIDE OF KISSANE'S CASE.

The press dispatches have for some time been laden with data and comments in regard to William Kissane, his extraordinary career and present prosperity. But these have all been given from hostile sources. We have heard nothing direct from the accused himself. Public opinion is divided as to the course which should be pursued towards him. Some papers and persons think he ought to be forgiven of his errors because of his subsequent good conduct through a series of years, and the respectable position he has achieved by a course of honest endeavor. Others think he should be brought to justice for his crimes, notwithstanding the time that has elapsed since he committed them, because of their heinous nature and enormity and suffering and ruin they entailed upon the others.

The great objection to mercy in his case seems, in our opinion, to be, his failure to make such restitution as appears to have been in his power. If he is wealthy and prosperous, and anxious to secure immunity for the past, he should pay back the money he gained by fraud and obtain the good feeling of those whom he wronged. It is probable that if he had made a fair and honest attempt to do this, he might have obtained the legal relief he desired without difficulty. But now his secret is blazoned to the world, and he and his family and their high-toned connections are overwhelmed with the disgrace attending this exposure. "The way of the transgressor is hard."

The New York *World*, with its usual enterprise, has sent a special correspondent to Sonoma to obtain the statement of Kissane, or Rogers, as he is now called, and give him an opportunity to present his side of the affair to the public. The reporter did not find Kissane, who is said to be in hiding in San Francisco, fearing arrest, but he met his wife, who has been married to him for twenty-three years, and who appeared overwhelmed with grief and surprise at the accusations against her husband. Their home is thus described in the columns of the *World*, as seen by its correspondent:

"The place is between two and three miles out of the town of Sonoma. The house, which will compare favorably with many of the princely homes of England, is a massive structure of hewn stone, in appearance resembling granite. It stands from half to three-quarters of a mile away from the road, upon a spot where the low rolling hills of Sonoma dip into the rice valley. It is approached by a long lane crossing a perfectly level field, carpeted with a luxurious growth of wild grasses and flowers. The landscape all about is dotted with live oak and white oak trees, many of gigantic size. The porch, with its lofty pillars, is embowered at its base in ornamental shrubbery literally intermingled with large orange trees, on which the gold of the ripe fruit is contrasted with the snowy clusters of the fragrant blossom. A well-kept fountain in the centre of the garden adds to the general attractiveness of this charming rural picture. The atmosphere is laden with the perfume of a thousand flowers and the shrubbery is resonant with the notes of song birds. The view from the porch presents a panorama of orchards, vineyards and grain fields. Altogether it may be said that there is no more lovely spot in all California than the home of William Kissane-Rogers."

The correspondent, unable to interview Rogers, succeeded in obtaining from one of his intimate friends, a relative, the following account which may be regarded as the defendant's case. As so much has been said against him, we copy from the *World* this statement, that those who desire to arrive at a fair judgment of this matter may have the benefit of hearing "the other side:"

"First, then, as to the *Martha Washington* case, Rogers says that the whole trouble grew out of the refusal of the insurance companies to pay the insurance on the cargo of that vessel. The charges, he says, were trumped up against him and others, and the case was tried in the Ohio Circuit Court, a full report of which is given in volume 5 United States Circuit Court proceedings, Ohio, pages 513 to 616. Having been acquitted by the jury without any testimony being offered for the defense. Rogers or Kissane, as he acknowledges his name is, went to New York. He says that the enmity of persons whom he had beaten in the insurance case followed him there, and that the alleged check forgery was a put-up job to send him to the penitentiary. He had no money for his defense, was in a strange city, and was convicted, as many another innocent man before and since. His friends afterwards rallied and managed to get him pardoned.

Ruined in pocket and reputation he says he became reckless, and while in that mood joined the Walker expedition to Nicaraugua. He rather wished for death and threw himself heart and soul into the bloody work. But the death which he sought did not come and after awhile in confidence he told Walker his experience. Walker sympathized with him and in one of the pronunciamentos his quasi-government announced that he had appointed William Kissane Rogers one of his ministers and aides-de-camp. Having thus been renamed in half legal form, he allowed himself to be known by that name ever since. Rogers says that his enemies have shown devilish ingenuity in publishing these stories against him. He says all these stories are based on a slight foundation of fact, but the whole truth, he says, has never been told. He says it has been alleged that he was a murderer, or, at all events, had been charged with murder. This story was repeated in Sonoma County by the two enemies referred to in yesterday's dispatches to the *World*. It was sought to work up public sentiment against him then on that account, just as it is now. The truth is, he says, that, as has been alleged, he was arrested on a charge of murder, but the sequel is not mentioned, and is studiously concealed by his enemies. The man who was said to have been murdered was named Lewis, and during Kissane's examination for the alleged crime Mr. Lewis, he says, turned up safe and sound, having taken a trip down the Ohio River.

As to Gen. Darr, Rogers says that he does not know the man, and never knew of his existence till recently. The alleged incendiarism charged against Rogers, he says, could not have been committed by him as it took place long after he left that part of the country where it occurred. Darr, so Rogers says, can have no shadow of a just claim against him, and he declares that he has no hesitation in saying, and his friends say with him, that the whole thing is a gigantic piece of blackmail. He says that had he acceded to demands made upon him nothing would ever have been heard of the case. Rogers says he is not by any means wealthy. His ranch is heavily mortgaged and his income is just sufficient to support his family comfortably and no more.

A good deal has been said in some dispatches about Kissane's brother, who is said to have assisted him in his alleged infamous work in the east and to be at present a prominent lawyer in this city. The fact is, Rogers has a half-brother here who came to the coast when he was nine years old, and nobody here believes that he ever committed a crime in his life.

Lawyer Hart's connection with the case and his appearance in New York were caused, so Rogers' friends say, by these alleged facts. A demand was made upon Rogers by Darr for a certain sum of money which he alleged was due him in consequence of the burning of the elder Darr's factory in Ohio. Rogers and Lawyer Hart are old friends, having been acquainted many years ago in Cincinnati and having been intimate friends here. Rogers says that he asked Hart's advice and told him of the demand and also that the old indictments in New York had been held as a cudgel over his head to force him to pay rather than have them made public. Rogers says Hart of his own motion at once proceeded to New York and the subsequent events are now public property.

Rogers says he has already sent documents authorizing Hart to act for him, and also numerous affidavits testifying to the esteem in which he is held by the community in which he has lived for nearly a quarter of a century. The above statement may be relied upon implicitly as being Roger's side of the story."

DISCHARGE OF THE DETROIT PRISONERS.

The Detroit *Free Press* gave the following account of the proceedings in obtaining the discharge of the brethren from Idaho, who were imprisoned in the House of Correction:

"Elder Lorenzo Snow, of Salt Lake City, was sentenced by Judge Orlando W. Powers on January 16, 1886, for unlawful cohabitation. The grand jury in indicting Snow found that he had lived with two wives for a period covering thirty-five months, and they found three separate indictments, each covering a portion of the thirty-five months. The prisoner was sentenced upon each indictment for six months and a fine of $500 in addition. Elder Snow appealed to the Supreme Court of the United States for his discharge on the ground that the court had no right to sentence him upon more than one of the indictments and by his imprisonment after the first six months he was serving two terms for the same offense, the cohabiting being with the same woman. The Supreme Court held that Judge Powers had no power to divide the thirty-five months between three indictments; that the court might as well, and on the same principle, have found thirty-five indictments, one for each of the thirty-five months, with imprisonment for seventeen years and a fine of $17,500. Or the court might as well have found indictments for every week of the thirty-five months with imprisonment for seventy-four years and fines amounting to $44,400, and so on for smaller periods of time. The Supreme Court therefore held that Judge Powers had no jurisdiction to punish in respect to more than one conviction, and consequently discharged Elder Snow from imprisonment.

"In the cases which were before the United States Court here Saturday the petitioners were ten Mormon missionaries who had gone into the wilds of Idaho Territory years ago and had continuously lived there for periods ranging from ten to thirty years prior to the act of Congress of 1882, with two wives, and had raised by each large families of children. The act of Congress of March 22, 1882, provided that this cohabitation with more than one woman would create a misdemeanor, punishable by a fine of $300 and imprisonment for six months, and these missionaries, on account of their continuing with their wives and children after the passage of the law, were brought before the federal court of Idaho Territory, and sentenced, on two indictments for the same offense, to the House of Correction in this city. After their first term had expired, being poor men, their fines were remitted, under the poor debtor's act, and by their attorney Alfred Russel, they applied to the court to be discharged upon *habeas corpus* from serving out the second sentence. The cases came on for hearing before Hon. Henry F. Severens, Judge of the western district of Michigan, who determined upon arguments that their cases were identical with that of Elder Snow, and accordingly ordered them discharged for the want of jurisdiction of the Idaho court, upon the second sentence."

THE RATES TO LOGAN.

In another part of this issue appears a correspondence from Mr. Hoyt Sherman, the gentlemanly agent of the U. P. Railway Company. He takes exception to a recent article which appeared in this journal upon the lately increased rate for round trip tickets to Logan issued to people going to that place to visit the Temple. Upon one point, the first touched upon in the communication, we stand corrected. The figures were correct so far as the round sum charged was concerned, but not as to the proportion pocketed respectively by the U. P. and U. C. companies, the latter getting the larger share, the relative distance of the two lines considered. That does not mend the matter so far as the U. P. is concerned, but makes it look as if the U. C. had got into the same boat. This point is weakened to some extent, however, by the implied admission that the former company is responsible for the rise, on account of it involving a safer construction of the inter-state commerce law. This idea of safety does not seem to impregnate the U. C. people, as they are willing to give, and we understand are giving, half-rate temple tickets to Ogden—as far as they can go without combination with another road.

Our remarks are not made on this subject with the slightest intention of being unfair, but to state the simple facts as we understand them, and we are pleased to make the correction pointed out by Mr. Sherman. The position of that gentleman is unquestionable so far as our opinion of it is concerned. He proposes to legitimately and properly make business for his road, and we presume if he was left entirely free from dubious legal interpretations of law, etc., he would soon adjust the matter.

There is one point that cannot be covered by legal interpretations. It involves a special hardship to temple goers, while it may not to any other class of passengers—the five days limit on round trip tickets. To many of the people going to the Temple the limitation renders the tickets of no use for the return trip.

Our object in treating upon the subject at all must be plain. Most of the people in whose behalf we speak belong to the industrial class, and many of them have but limited means. We will, however, repeat our opinion in relation to the agent of the U. P. in this city. If a satisfactory arrangement is not soon made it will be no fault of his.

JURORS ILLEGALLY REJECTED.

Proceedings in the Third District Court to-day were rendered unusually interesting by the extraordinary course pursued toward the "Mormon" jurors summoned to serve for the term. A full account will be found in another part of this paper. It should be read by every one who takes any interest in the administration of the laws in Utah. Nothing like it has occurred before, either here or elsewhere. Mr. Dickson is no doubt very much chagrined at the disapproval of his official excesses, plainly expressed in his abrupt removal, but that is no excuse for the course pursued to-day, neither does it justify Judge Zane in permitting and approving of such unprecedented conduct.

On examination under their *voir dire* as to their qualification to serve for the term, the jurors summoned were required to answer questions for which there is no warrant whatever in the law. The statutes in such case made and provided are sufficiently severe without resorting to the remarkable means adopted by the Prosecuting Attorney, for the purpose of excluding "Mormons" from the panel. The Poland law provides for equal representation on the jury list of "Mormons" and "Gentiles." The Edmunds law excludes from juries in trials for bigamy, polygamy and unlawful cohabitation all persons who believe in the rightfulness of those practices. But no such person is thereby excluded from jury service in other cases. The new law requires all jurors before entering upon their duties to subscribe to an oath that they will obey the laws of the United States, and particularly the Edmunds law and the new law, as to the crimes mentioned therein, and that they will not aid or advise others to commit those crimes. The laws of the Territory require jurors to be male citizens of the United States over twenty-one years of age, residents and tax-payers. These comprehend the qualifications required by the statutes of Congress and of Utah.

The jurors rejected this morning were willing to subscribe to the oath, and they possessed all the statutory qualifications. In law they were competent to serve. Why were they ruled out? Simply because they were "Mormons" and would not agree to something that no law of God or of man requires of any juror under the sun. The promise sought to be extorted from them was fabricated for the occasion, and its intent was evidently to exclude all "Mormons" from the panel. What ulterior motive lurks behind remains to be developed. That there is a purpose not yet in general view it is reasonable to assume. A little time will doubtless bring it forth.

It was known to the Prosecuting Attorney and to the Court that the members of the "Mormon" Church believe in the divinity of a revelation on the subject of marriage which is incorporated in one of their sacred books. It was their belief in this that was made the occasion this morning, of rejecting "Mormons" from the panel. It was therefore a religious test that was imposed, something forbidden by the Constitution of the United States. It led up to the agreement sought to be forced upon the jurors, that is, that as long as they lived they would not break those laws of the United States which conflict with that revelation. It was understood that they would not make any such agreement. For this reason it was imposed, so that on failing to promise they might be rejected as jurors.

The oath required by the law covers all the ground intended by the law. Neither the Prosecuting Attorney nor the Court has any right to manufacture law. They can do no more than administer the laws as they find them. There is not a line of law nor of precedent for the extraordinary demands made upon the jurors to-day. Those men may at some future time live in a State or a country where no such laws or obligations as they were required to swear perpetual obedience to prevail. The laws referred to may be repealed. Other contingencies may arise that need not be particularized that would render null the obligations of the oath required in the law. But the promise sought to be extorted—or rather placed in their way as an obstacle—would bind them for their whole lives in any country, under any conditions, and though the laws themselves might be changed, to still observe the requirement the oath imposes.

The "Mormon" jurors, very properly, would not make the promise, for it is not required by law. It was simply Mr. Dickson's requirement and became Judge Zane's by his endorsement. But it has no legal sanction on that account Judges and Prosecuting Officers are bound by the law as much as jurors. They also have taken an oath of office. They have no right to make law, and when they transcend the bounds of the law they become offenders themselves.

The trick for the present has prevailed. No "Mormon" will probably be found on the panel for the term. When cases to be tried are brought up the primal design behind this concoction will come to light. But it will bring no comfort and afford no ultimate profit to its inventors. The plan resorted to exhibits the clover hoof too plainly; the shadow of the horns may be discovered in the rear. And above may be seen, with eyes that have been opened by the light of coming events, the sword of justice, which will smite the conspirators and cleave in twain the scheme they have set on foot, of which this expulsion of jurors is but the forerunner.

This step to-day is a bad one for the anti-"Mormon" cause. It is so plain an excess of law and justice and right that no reasonable man can fail to see its turpitude. After the warning that the District Attorney's removal gave, it would be reasonably supposed that the administrators of the law would keep within the lines of the law. But prudence and good judgment seem to forsake those who imbibe the anti-"Mormon" gospel of hate, and are baptized in the blinding waters of vindictiveness. They are inspired with the spirit of injustice, rush onward to folly and inconsistency, and will find themselves immured in the swamps of ruin and defeat.

Our friends who have been cast out from the panel to-day have been deprived of a right by a process entirely in excess of the law, and it will now remain to see whether any legal means are open for redress. Meanwhile the community, outraged in the persons of these rejected jurors, may be assured that good will be brought out of this intended evil, and that justice and right will yet prevail.

DESERVED DECAPITATION.

The removal of W. H. Dickson from the office of District Attorney for Utah—for that is what the imperative request for his resignation signifies—will be approved by all classes in this Territory, except the fanatics, the virulent anti-"Mormons," and the Republican officials who profit from the fee-system, by which Uncle Sam is bled and "Mormons" are mulcted to gratify their greed. It is the duty of the officers of the law to enforce and execute the law. In the performance of that duty they should be sustained. But they are not required to strain and exceed the law, in malignant hatred of a creed and its adherents, or an excessive eagerness to pile up an income from fees.

That the person now removed has passed over the bounds of the law, and often of common decency in assaults upon helpless defendants and witnesses, is well known to the people of this Territory, and whoever may be his successor or whatever course the new official may pursue, we should be withholding the truth if we refrained from saying, that Dickson's removal will gratify all who do not wish to see the law outraged and rendered shameful, by special and vindictive proceedings against one class of the community in a manner unprecedented in the history of the nation.

We do not interpret this removal as by any means an indication that the laws are not to be enforced against the "Mormons," but as evidence that the Administration is not favorable to persecution in the name of prosecution, and simply desires all the laws to be administered and executed with equal zeal and justice. Spite, passion, personal animosity and vengeance in a given direction are incompatible with the proper administration of justice, and even when indulged in toward an unpopular a people as the "Mormons," cannot be upheld by a Government that views all men as equal before the law. The present action is in support of the law, because it is a rebuke to official unfairness and partisan excess. Will other bitter official zealots take warning?

ANOTHER SPURT OF JUDICIAL SPITE.

The action of Judge Zane on Friday in refusing the application of Mr. Joseph Simmons for a certificate to enable him to act as agent for land claimants, was another exhibition of rancor and anti-"Mormon" partisanship, for which the Chief Justice has made himself conspicuous. The applicant has acted for a long time in that capacity, and was strongly endorsed as capable and honorable. He has taken the oath of office. He has complied in every respect with the law. No one brings a charge against him. Judge Zane cannot allege anything unfavorable to his character. All the law requires of him now, that he may conduct cases in the land office in the pursuit of his regular business, is a certificate from the Judge that he is "of good moral character and repute and possessed of the necessary qualifications."

But it appears that the law is not enough for Judge Zane. Mr. Simmons is a "Mormon." That raises the judicial bristles in a moment. The belief of the applicant is called in question. The Judge has no more right to ask him if he believes in polygamy than if he believes in baptism. The belief of the applicant has nothing to do with his moral character and repute. If the Judge does not know Mr. Simmons, let him make inquiries as to his reputation. But no, that is not the objection in the judicial mind. The man is a "Mormon" and therefore to be obstructed if possible.

If belief affects moral character and repute, how would Judge Zane like to be put to the test on his own belief in the Bible which, if report speaks truly and his own remarks on it have been correctly stated, is of the most shaky and unsatisfactory character to Christians of all denominations?

The law does not require an applicant to make any promises or agreements as to future conduct. The demand of Mr. Simmons that he declare his intentions in regard to specified laws, was altogether outside of the law. Judge Zane was not asked to certify as to what Mr. Simmons would do or had agreed not to do. He was to give a certificate as to his repute, based on his past actions and the character he has in the community. All the rest was Judge Zane's