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CHARLES W. PENROSE, EDITOR.

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PEOPLE'S TICKET.

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FOR DELEGATE TO CONGRESS,

JOHN T. CAINE.

WHY NOT EXECUTE THE LAW IN TENNESSEE.

The intolerance and mobocracy which are permitted to break out into "overt acts agagainst peace and good order" in the State of Tennessee, reflect severely upon the officials of that State and argue a very low condition of public sentiment within its borders. No sincere effort has been made towards the discovery and punishment of the cowardly assassins who shed the innocent blood of the Elders and Saints at Cane Creek on a recent Sabbath day.

The reward offered by Governor Bate was so arranged as to offer no solid inducement to any competent officer to ferret out the murderers, and the manner in which the proclamation was made showed that there was no heart in the hollow pretence of a desire for the law's vindication. Nothing practical has been done, but the mobocrats are suffered to go at large and continue their defiance of law and humanity, in threats of vengeance upon peaceable citizens of Tennessee. The annexed dispatch which appears in several eastern papers substantiates what we have said:

Nashville, Tenn., Oct. 9.—A Mormon family of six passed through here yesterday. A boy and a girl aged 10 and 12 were harnessed in a small cart containing their earthly possessions. The ankles of the children were swollen and bleeding. The father and mother each carried a child. They said they came from Lewis County, and were going west, but the man in evident terror said in answer to a question that they were "not exactly" Mormons but were suspected, and were forced to leave.

The picture thus presented to the country ought to startle into action those whose duty it is to protect the citizen and bring to justice the criminal. If the people thus driven from their homes by brute force and armed intimidation have broken any law, they should be arrested and punished as the law requires. If they have not violated the law, they ought to be shielded by its officers from the attacks and threats of the lawless, even if it should require the whole power of the State and the aid of the military.

That these refugees belong to an unpopular religious body argues nothing. Their civil rights are equal to those of the most orthodox of "Christians." Not only the Constitution of the United States but the Constitution of Tennessee accords them the right to freedom of religious faith and worship. And the Supreme Court of the United States has formally enunciated the indisputable axiom that, "Laws cannot interfere with mere religious belief and opinions;" and has further declared that "Religious freedom is guaranteed everywhere throughout the United States."

It has never been claimed that those Latter-day Saints residing in Tennessee practised the system of plural marriage entered into by some of the people of Utah, or that they performed any act in opposition to law. Whether they believed in the rightfulness of the doctrine of plurality of wives or not, so long as they observed the law and kept the peace they were entitled to the protection of the law and exemption from mob violence.

The respectable people of Tennessee should bear in mind that orthodoxy frequently changes its ground. The heresy of to-day becomes the established creed of to-morrow. And that which may be popular at present may become unpopular in the near future. If violence can find protection in its raids upon one unorthodox body, it may wage with equal fury upon another that has become detested through the change of public opinion. *Vox populi* is fickle and unreliable. Unstable as the wind, it may swiftly turn and its forces proceed from an opposite direction. It is unsafe to be guided by or to pander to it. And it is cowardly in the extreme to allow mob violence to prey upon the weak. The State of Tennessee is disgraced by its craven submission to those lawless ruffians who defy its laws and trample upon its regulations. Are there no public men brave enough to defend the rights of the oppressed? Is there no journalist with sufficient backbone to stand up for the liberties of the unorthodox? As sure as retribution is a consequence of eternal justice, so sure will a State that winks at murder and condones mobocracy be heavily smitten by the hand that deals out measure for measure.

THE OBJECT IN VIEW.

The exclusion of "Mormons" from grand juries in certain cases, gives encouragement to the clique of characterless adventurers in this city who are working for the entire disfranchisement of "Mormon" citizens. It is hoped that by continual misrepresentations, and the persistent repetition of falsehoods the refutation of which is paid little attention to, Congress may be induced to pass a law to debar any one believing in the "Mormon" religion from holding office or voting at any election.

The organ of that clique has expressed itself in favor of such a scheme on several occasions. The "Liberal" candidate for the office of Delegate to Congress announces himself as an advocate of that kind of liberalism. And the action of such "patriots" and "Americans" as desire such a measure are defended and applauded. In Alturas County, Idaho, at a so-called Democratic convention not long ago, the disgusted politicians who could not succeed in capturing the "Mormon" vote for their choice for Delegate, adopted a resolution which declared that: "No Mormon is entitled to vote or hold office in the United States." Thereupon the organ of the conspirators in this city exclaimed, editorially, "The whole resolution has the true ring, and the *Tribune* stretches out its hands lovingly to those Alturas Democrats."

What a touching sight! The mottled Republican *Tribune* in the loving embrace of the bogus Democrats of Idaho! And all for hatred of the pesky "Mormons," who cannot be controlled to suit those pot-house politicians and hungry office hunters.

The programme arranged for the coming performance of these "Liberal" mountebanks has for its chief eature all kinds of twists and genuflexions and ground and lofty tumbling, to effect the great desideratum—the disfranchisement of all "Mormons" for religious belief, which means the control of this Territory by a handful of godless and unprincipled tricksters impatient for pickings and greedy for plunder. But, don't they wish they may get it! And won't they be fooled as to the result!

"NO MORMON NEED APPLY."

In reading the account of the inquisition established in the Third District Court, the questions of the Prosecuting Attorney to the jurors summoned in the Rudger Clawson case, and the replies in reference to belief in certain tenets, one is led to query whether the constitutional provision against religious tests is in future to have any force in this great and free republic. There is one thing which strikes us as a big waste of valuable time in the proceedings of the court. It is evident that the object of the iniquisition is to exclude from the jury box every person who belongs to the "Mormon" Church. Now, instead of beating about the bush and instituting a tedious catechism, why not ask the question at once, "Are you a member of the Mormon Church," and have done with it? Or, why not post up a notice in court, "No Mormon need apply," and let the jurors who have any faith whatever in "Mormon" doctrine step down and out without more ado? This would save time, be honest and straightforward, and would accomplish the object in view without difficulty or circulocution.

THE CLAWSON CASE.

PROCEEDINGS YESTERDAY AFTERNOON —JUDGE ZANE'S ORAL RULING—MORE WITNESSES EXAMINED.

Our report of proceedings in the trial of Rudger Clawson, for polygamy, closed last evening while U. S. Attorney W. H. Dickson was replying to Judge Harkness, in defense of the admissability of certain testimony tending to prove an alleged polygamous marriage, in an effort put forth to establish the first marriage. The discussion, it will be remembered, sprung from a question put by Mr. Dickson to Miss Alice Dinwoodey, a witness, asking if she was introduced to Lydia Spencer, at the defendant's house, on the occasion of first meeting her. Mr. Dickson spoke for nearly thirty minutes and having closed, Judge Zane made the following oral ruling:

The counsel for the prosecution in this case propose to prove, as I understand from the argument, admissions of the defendant of a second marriage the first one not being in dispute, and he offers also to prove circumstances tending to prove the second marriage. Both of these classes of evidence I believe you propose to offer?

Mr. Dickson—Yes, sir.

Judge Zane—Counsel have referred to a number of cases, and there appears to be a conflict in these cases; but the Supreme Court of the United States, in the case of the People against Miles, in the 13th of Otto (103d) have held that this class of evidence was proper in that case. The first marriage was in issue, and the second one, I believe, was admitted; and it would seem from the authorities that the issue generally has been upon the first marriage, and that would be naturally so, I presume, because the second marriage being more recent might be more easily proven. It is not until the prosecution have some evidence, at least—satisfactory evidence—of the second marriage that an indictment is found, and the investigation usually is directed more, in bigamy cases, with respect to the second than the first marriage. It is insisted that a different rule, however, applies; that while the admissions of the defendant and circumstantial evidence are competent to prove a first marriage, it is not competent to prove a second. Some reasons have been given. One is, I believe, that the first marriage being more remote it may be more difficult to prove it by the records. While that is so, there are some reasons why the second marriage—where the first is admitted—would be difficult to prove; because in a country where there is a law—as in this—against a second marriage, it is not reasonable to presume that a person knowing that he was subject to punishment would furnish the evidence by which he could be convicted; and it would seem to me that the admission of the second marriage, if clearly and deliberately made, and correctly understood, and correctly reported, would be of greater weight as to the second marriage then an admission of the first marriage before the second marriage took place; because it is not to be presumed that a person knowing that a transaction which he acknowledges would subject him to punishment, would state that it occurred when it had not occurred. Men sometimes will tell a lie when they think the lie will do them better than the truth; but no man is so fond of it that he will tell a lie when the truth will do him better. Men do not state falsehoods for the purpose of receiving punishment, and it would seem to me, therefore, if the defendant deliberately makes the statement that he had married a second wife while the first one was living, that at least ought to be competent evidence to go to the jury. In respect to the circumstances, it would seem that in this Territory there is no law requiring a record to be kept of marriages, and none requiring witnesses to be present, and it cannot be proved by the record, because there is no legal record, there is no record made in pursuance of the law. Resort, therefore, must be made to other evidence, to the testimony of persons who were present, to the admission of the defendant, and the circumstances. While the general rule is, that when it is competent to prove a fact by the testimony of a witness who knows it directly, it is competent to prove it by circumstances. That is the general rule, unless there is some law against it. It is upon presumption we know fact. No human affair stands alone; it is connected with others—the cause and the effects of the act. Every act in a man's life is connected with others. And the ceremony of marriage—marriage is necessarily not like any other transaction in human life—it is not just like—and the circumstances that stand around and and follow and precede, are not like any other transactions in human life, and when these circumstances—when a coincidence of circumstances all pointing to a marriage—concur, it would seem to me that they ought to be competent evidence; for you cannot explain them upon any other reasonable hypothesis than the existence of the marriage; they ought to form a reasonable inference of the marriage; and while the authorities are conflicting, yet I am disposed to hold that upon the weight of authority this testimony ought to be permitted to go to the jury.

The Judge having ceased Miss Alice Dinwoodey was recalled and the examination went on. The question before objected to was put again and the witness replied: "I was introduced to Lydia Spencer at that time by my sister Florence, I think; do not know whether Lydia was there as a visitor or not; guess she had a room there, it was upstairs I think; Florence's bedroom was down stairs; I saw Lydia there once at meal time, she took her meal with the family; never heard Florence nor anyone else in the presence of defendant say anything about defendant's relations with Lydia Spencer; if I ever said anything about it to anyone it was jokingly; believe I have spoken to Florence about a report that "Rud." had another wife, but don't remember that she answered anything; think it was April; they had a child, which was treated like one of the family, but I never heard defendant say it was his. Their house in the 18th Ward was almost opposite President Young's grave, north.

HENRY DINWOODEY,

Being sworn, said:

Am acquainted with the defendant; he married my daughter Florence Ann, two years ago last August; they lived with me perhaps a year afterwards, had a child, and then went to live in the 18th Ward; they went there before January 1, 1884; I occasionally visited them, and have dined or lunched there probably twice; have met Lydia Spencher there; called there with my wife and Lydia answered the door; I afterwards asked who she was, and was told it was Lydia; afterwards heard her name was Lydia Spencer; when she came to the door she was not dressed for the street; this was before last April, and less than six months ago, I believe: never conversed with defendant as to his relationship with Lydia Spencer, nor spoke of it to anyone else in his presence."

Mr. Dickson—"Had you heard it reported, prior to April last, that defendant had married Lydia Spencer?" Question objected to by the defense. Prosecution stated that they did not offer it in evidence, but simply to refresh witness's memory. The court sustained the objection.

Mr. Dickson — "Did you ever speak to the defendant about his contemplated marriage with Lydia Spencer." Objected to; Court permitted Witness to answer.

Witness—"No."

Mr. Dickson—"Did you ever hear him say anything about taking another wife!"

Witness—"No."

JAMES E. CAINE

Was sworn and testified: I live in the city; am 22 years old and a son of John T. Caine; have known defendant for about fifteen years; know Florence Clawson, but did not before her marriage; do not know Lydia Spencer, except by sight; know of her; saw her first in Spencer Clawson's store, about a year ago last March; the employes were Orson Rogers, R. V. Decker, Rudger Clawson. W. Lund and myself; the defendant was bookkeeper; think he commenced there in December, 1882; I started to work there in March, 1882, and quit in July, 1883; my employment was that of drummer, principally; I went back a week ago last Friday, and quit again last night; while employed there first, I was out traveling about half the time; have seen Lydia come into the store twenty or thirty times from March, 1882, to July, 1883; she came to see Rudger Clawson; his place was inside the railing, in the south-east corner of the store; she went inside the railing at times; the defendant was the only one regularly employed in that part; have seen her talking with him; have not seen them leave the store or come in together; have seen Florence come in two or three times a week; she came to see the defendant; I have conversed with the defendant on the subject of his relationship with Lydia; I think it was in April, 1883; that was the only time; Lydia had been there to see him immediately before; it was only a few seconds after and while she was leaving the store."

Mr. Dickson—"What was said by you and the defendant?" Question excepted to by the defense. The witness was allowed to go on. He said:

"I asked him if that was his second wife; he said 'yes'; I never after that conversed with him on the same matter."

Cross-examined by Judge Bennett—"Was anyone else present when this conversation took place."

Witness—"No."

"Where was it and when?"

"In the office, I think in April, 1883.'

Redirect—"Could you tell more accurately by referring to the store's books?"

Witness—"I think I could, as I could then tell when I was out and when in."

The witness was excused for the time being, but before he had left the room, U. S. Attorney Dickson beckoned him back and the two stood conversing in whispers a few moments, after which the attorney announced that he desired Mr. Caine recalled. The witness again took the stand.

Mr. Dickson—"Mr. Caine, did you ever have any conversation with the defendant, after that, in relation to the first conversation?"

Witness—"I did."

Mr. Dickson—"When was it?"

Witness—"Last night, or night before last."

Mr. Dickson—"What was it?" (Objections.)

Witness—"I had been subpœnaed with the other clerks; the defendant came to me and said: 'I understand you have said that you asked me if Lydia was my second wife. I answered, Yes.' I replied 'Yes, I said so;" he then said he did not say yes, or if he did it was qualified, as 'Yes, that's what they say,' or something to that effect. I replied that I did not hear him say anything but 'Yes.' He said: 'Well, you admit there is a doubt?' I answered 'Yes, there is a doubt, but not in my mind.' I meant the doubt was in his mind."

We will here state that Mr. Caine, while evincing great readiness to answer, did not deliver the above glib narrative continuously. Such a proceeding was attempted at the start, but was objected to by the defense, and so Mr. Dickson plied him with leading questions, which we have omitted for brevity's sake, simply bunching the answers made.

JOHN M. YOUNG

was the next witness who testified: I live in the Tenth Ward, this city. Am 28 years old, have known the defendant probably two-thirds of that time; I have known Lydia Spencer about 18 months; I first saw her at her home on Third East street in the Tenth Ward; don't know the other parties' names who reside in the house; I saw the defendant there a short time after I first met the lady; never saw him in the house, but have seen him frequently coming and going; he came at midday and in the evening at 6.30 or 7, and I saw him leave at 8 in the morning. Have seen both in company together frequently, at the theatre and elsewhere. We went to the theatre together, and my wife and I came home with them, saw him enter the gate. I never carried a message to her. I frequently see the people who lived in the same house, but don't know where they now live. The house is owned by Miss Spencer's mother, Mrs. Auer.

WALTER J. BEATIE,

an employee of Z. C. M. I. was examined for the purpose of fixing the time November, 1879, when the defendant last entered that institution's employ, and December 1882 when he left.

SPENCER CLAWSON

Was then sworn and testified: I reside in this city; my business is wholesale dry goods, at No. 51 and 52 Main Street; defendant has been in my employ as bookkeeper since January, 1883; have known Lydia Spencer six months or a year; she has been to my store frequently; she came to obtain work, and usually talked with whichever of the clerks she met first; I have seen her in the office with my brother a number of times; I visited his house once; I can't recall the date; no one was there except my wife, myself, my brother and his wife; did not see Lydia Spencer there; never conversed with defendant about her; have seen them together once or twice going to church; Mrs. Florence Clawson was not with them; think this was before Christmas; I am unable to locate the date; I have never been introduced to Lydia Spencer; I am not a member of the 18th Ward Improvement Association; Lydia Spencer never bought goods at my store and had them charged to defendant; never had a conversation with him about it.

Mr. Dickson—Do you remember the incident of a parcel having been picked up in your store, of yourself or someone else saying, "Whose is this?" of some one's answering, "Rud's wife's," and of his saying "Which one?"

Witness—I don't recall it definitely; I remember something of such a package and of someone saying it was Lydia Spencer's; I ordered it rolled up and laid away for her. I don't know that defendant was there; I don't remember the remark about "Rud's wife;" can't recollect that it took place; I made no such remark; I can only state that I have no recollection of it. (The court reporter read from Mr. Clawson's previous testimony, where he stated that he did not recall it definitely.) By "definitely" I meant I only recalled the portion I stated.

Mr. Dickson—Do you state that you did not state on that occasion, "That's a good piece of evidence;"

Mr. Clawson—I have no recollection of making such remark. My books would not show any charge for goods gotten by Lydia Spencer; it would only be a memorandum, as she had no account; could not say whether or not my books show that she purchased goods on his account; he has never been absent from my employ any length of time: only a few hours occasionally to go to the lake, etc.; I was away in January and February, 1883, also from June 1st to the 18th; left again in August, and was absent in January and February, 1881; Orson Rogers was left in charge during my absence. The books would not show my brother's absence: he has never asked my permission to be absent except at the times stated: we keep a day book, a journal, a ledger, and a press copying book: I have them all on hand.

Mr. Clawson was requested to have the books in court Friday morning, at 10 a.m., and on his agreeing to do so, the court adjourned to that time.

Friday, Oct. 17th.

Punctually at 10 o'clock this morning the District Court was called to order, and after a few minutes delay, occasioned by the absence of two of the jury, the case of the United States vs. Rudger Clawson was taken up and the trial resumed. Just before this, and while waiting for the absent jurors, word was received that the defaultlng jury-men, William Smith and James Cullenan, were in the Court. Mr. Smith was accordingly asked up to give a reason for his non-appearance yesterday morning. He seemed to be laboring under some false impression, for as soon as he reached the desk he threw up both hands as suddenly as if he had been a passenger on a stage-coach beset by highwaymen. A ripple of merriment went over the audience, and even the Judge and clerk could not repress a smile. This seemed to reassure the witness that his life and valuables were safe for the time being, and lowering his hands he answered the questions put to him satisfactorily, stating that he was sick and could not be here. He was excused with a word of advice on punctuality.

James Cullenan then walked up and was asked a number of questions as to the cause of his absence after he had been served. Reasons with him seemed to be "as plenty as blackberries;" he was unwell, had not been served, had a bad cold, and in fact, "Your honor," said he, "my hearing is not good enough to act conscientiously as a juror." The idea of a juror with his conscience in his ear, struck the court and everybody else as being particularly funny, and the Judge, after another word of advice on promptness in responding to a legal process, excused the defaulter with a benignant smile, and called the convulsed house to order. The jury now being present, the trial went on. The first witness called was

R. V. DECKER:

who testified as follows: "I am a general clerk, packer and shipper, at Spencer Clawson's store; have been