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CHARLES W. PENROSE, EDITOR.

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REVIEW OF THE UTAH COMMISSIONERS' REPORT.—No. 2.

THE Utah Commissioners in their report allege that the Edmunds Act "offers full amnesty for past offenses," and that it "also invites the people, through a Legislative Assembly to be chosen by themselves, to formally accept this generous offer of Congress to condone the past, and only requiring of them that they shall obey the law in future." It is needless to tell those who are familiar with the Edmunds law that nothing of the kind is to be found in its provisions. But many are not acquainted with its details, and for their benefit we quote. The sixth section of the Act says:

"The President of the United States is hereby authorized to grant amnesty to such classes of offenders guilty of bigamy, polygamy or unlawful cohabitation, before the passage of this Act, on such conditions and under such limitations as he shall think proper. But no such amnesty shall have effect unless the conditions thereof shall be complied with."

Thus it will be seen, the Act, so far from offering "full amnesty for all past offenses," does not offer any amnesty at all, but places the power in the hands of the President to impose just such conditions as he thinks proper, and to grant or withhold amnesty on those conditions at his option. One curious feature of this provision is that he is only authorized to grant amnesty for offenses committed *before* the passage of the act, and one of those offenses could not be committed before the passage of the Act because the Act itself created the offense. Before the passage of the Act there was no such offense as "unlawful cohabitation" within the meaning of the third section, and therefore the proposition to grant amnesty for it was either a piece of sly humor at the expense of the Chief Magistrate or a bit of bungling characteristic of anti-"Mormon" legislation.

Now let us see how much the people are "invited by this Act through a Legislative Assembly" to formally accept the "generous offer" that, as we have shown, was never made by the Edmunds Act. The last clause of the law provides:

"And at or after the first meeting of the Legislative Assembly whose members shall have been elected and returned according to the provisions of this act, said Legislative Assembly may make such laws, conformable to the Organic Act of said Territory and not inconsistent with other laws of the United States, as it shall deem proper concerning the filling of the offices in said Territory declared vacant by this act."

The Commissioners have all along pretended that the Legislative Assembly was required by this act to pass some laws in relation to the offenses named in the Act; to supplement the laws of Congress with legislation of its own on the same subject. In their report of October 30, 1883, they say in reference to the then incoming Assembly:

"It will be their duty under the act of 1882 to adopt measures, in conformity with the provisions of that law, for the suppression of polygamy."

And now because the Assembly has not acted according to the dictum of the Commissioners they advise, as they threatened to do in their report of 1883, "the most stringent measures compatible with the limitations of the Constitution," and, indeed, such extreme legislation as would, if enacted, be thoroughly hostile to the spirit and letter of that sacred instrument.

And yet, as the language of the Edmunds Act which we have quoted proves, the Utah Legislature is not required to do anything of the kind. No such requirement is stated, intimated or implied in the law. The Legislature is simply authorized to pass such laws "as it shall deem proper concerning *the filling of the offices* in said Territory declared vacant" by the Edmunds Act. There is not a sentence, or a line, or a word in it requiring or suggesting the passage of such laws as the Commissioners have taken upon themselves to declare it is made the duty of the Legislature to enact.

It has been already shown that the Legislative Assembly did pass a law fully meeting the requirement, if such it may be called, of the Edmunds Act; but it was vetoed by the Governor, as any law will be, without doubt, which really fulfills the intent of the Edmunds Act in cutting short the official lives and salaries of the Utah Commissioners, and does not enlarge the gubernatorial powers or pander to the undue ambition of the Executive.

This attempt of the Commissioners to put the Legislative Assembly in a false light before the Government and the country is not at all to their credit, and when properly understood, as it will be in the not distant future, will prove to them no source of delight, of honor or of reputation.

The Commissioners undertake to instruct the Secretary of the Interior as to the meaning and intent of the Edmunds Act, with a gravity that would be amusing if it were not so misleading. They say "the law was not directed at individual lascivious practices." This will be a surprise to many of those Congressmen who voted for the bill, if they should ever see the report of the Commissioners. They were no doubt under the impression that the third section of the law was aimed against what they considered individual lascivious practices, and was intended to cover all cases of unlawful cohabitation. But, according to the Commissioners, it was only aimed against the "Mormon" Church, or what they please to call "its assault upon the monogamic system," of which we shall have something further to say at another time.

This is intended by the Commissioners as an apology for the course of the Federal courts of Utah in turning loose "Gentile" criminals guilty of the grossest lasciviousness, while they send to prison honorable men whose offense consists in simply acknowledging the wives with whom they have made the most solemn agreements. They claim that the courts have been merciful in giving persons charged with this offense the opportunity of "a full renunciation." That is to say, the inestimable privilege of proclaiming to the world that they repudiate that which they have hitherto regarded as sacred, and will henceforth dishonor those whom they have formerly regarded with the highest honor and affection. If that is mercy, the quality is terribly strained. But to still further apologize for the partiality of the courts in favor of "Gentile" criminals as against "Mormons" under indictment, the Commissioners repeat the stale calumny that

"There is no local statute in Utah against adulterous or lascivious practices, and the responsibility for this is with the Mormons themselves."

What are the facts in the case? The laws against adultery and other sexual crimes which were upon the old statute books, were wrested and twisted by Federal Judges to meet cases of plural marriage, contrary to their plain meaning and intent, and when, by advice of some of the Federal judges and many non-"Mormon" members of the bar, a new penal code was enacted after being submitted to their supervision, those statutes which had been wrested to act in the place of the Congressional law of 1862 were repealed, with many others rendered unnecessary by the new code. "The Mormons themselves" are *not* responsible for the omission of those laws from their statute books, but the Federal judges who aided and abetted in their misapplication for the purpose of an assault upon the "Mormon" people.

But this attempt to throw dust in the eyes of the country in the shape of these oft-exploded fallacies, will not obscure the fact that it is the law of Congress against cohabitation with more than one woman that is corruptly administered by the courts for which the Commissioners make apology. The absence of certain laws in the Utah statute book is not the question. It has nothing to do with it. The question is, why do the Utah courts send to prison "Mormons" who have been found guilty of nothing but open recognization of women as their wives, no proof of carnal cohabitation having been brought against them, and at the same time turn loose without punishment "Gentiles" who have been proven guilty of the grossest immorality and who have violated the third section of Edmunds Act by cohabiting with more than one woman, though not "in the marriage relation." When the Commissioners make this clear there are some other questions which we would like to ask them in relation to their latest report. And there are further points in the document that call for some comment which we will reserve for a future occasion, not desiring to crowd too much of this review upon our readers in one article. There is more to come.

THE JUDGE'S FIELD DAY.

IT is to be hoped that his honor, Judge Zane, will now be able to turn his attention to secular affairs for a time, and give religion a rest. It seems to be a part of the programme to intersperse with regular business more or less sermonizing from the bench on the evils of "Mormonism," and having had perhaps more of that especial feature than even the shriekers and claquers require, it would seem the proper thing to let variety assume its wonted sway. The proceedings in the Third District Court on Saturday alone were sufficient as to virulence and volume to entitle us to something else for two or three weeks, anyhow.

Without delivering, the Judge filed his ruling *in re* the disbarment proceedings against Aurelius Miner, instituted by the Court himself. The full text, without omitting the dotting of an i or crossing of a t, was published in Saturday's NEWS, and the reader has by this time inwardly digested it, so far as such unsavory viands can be. It begins with a recital of the incidents connected with the trial, conviction, and sentence of Mr. Miner, and proceeds to reiterate most of what was said and done by the Court in relation to the defendant's failure to "promise." As before, his honor palpably, and as we believe wilfully, draws conclusions from collateral rather than cognate facts—that is, he makes use of the tactics of a lawyer who sees and cares to see but one side of a case, that in which he is interested; and all interpretations of the language used and the attitude taken by the defendant are construed in accordance with the definitions laid down in the "Liberal" vocabulary. Reviewing the previously exhausted apostrophe to disloyalty, Mr. Miner's words are again paraded before us, when his answer to the Judge's query as to whether or not he would obey all laws of the United States hereafter and not advise others to violate them, was made. Great stress is laid, by means of a powerful, strain upon the defendant's statement that since his majority he had never said he would obey all the laws of Congress, and that laws had been made which he never would obey. Inasmuch as the defendant there and then, on two separate occasions, in the connection referred to, stated what the laws were that he would not obey, and gave his reasons therefor, it would seem to an unprejudiced observer that the most ordinary sense of fairness would prompt the Court in seeking to punish him for assumed disloyalty, to give him the benefit of his statement as a whole, not state a part of it only, and thus make the world believe that the man whose degradation as well as conviction was sought was a blatant, unrepentant rebel. The determination to make Mr. Miner recant his faith and become "one of us" or punish him to the full extent of the power of the court if he would not, was plainly manifest in all this; and having to resort to the alternative, it must go to the public with a show of plausibility. What method more ingenious, what execution more unscrupulous, could the most extreme partisan attorney have devised and carried out? To stifle all that is against us, and display with all the braying and blaring of tempestuous rhetoric those things out of which we can weave a fabric to conceal our own imperfections, is the tactics of pot-house politicians and the lower grade of police court lawyers; but the bench should be above and beyond such proceedings, no matter how ambitious its occupant nor how much he may consider that he is obeying the written and expressed intent of the government and the "rest of us."

Mr. Miner specially said he would not obey the fugitive slave law, even when the Supreme Court pronounced it constitutional; that laws could not destroy his conscience nor his intelligence, and if all laws were quietly and unquestioningly yielded to, there would never be such a thing as testing them in the courts of last resort; that it was this disposition to resist the laws, the refusal to obey them and the inherent right of the educated to pronounce them within their own minds improper and unjust, that led to their being analyzed and passed upon by the highest authority; that, in fine, a law which had never received the ratification of the Supreme Court, was subject to attack at any time by any interested person—hence he had said he would not obey the fugitive slave law on the grounds of a higher duty (not a "higher law," the reader will observe) to public policy; and the Edmunds law he could not obey, because of a contract formed with another person prior to its existence, and pursuant to which contract vested rights had grown up, due from one to the other, and indestructible in their nature. This, we believe, was the substance of the answer which Mr. Miner gave; yet the Court, for purposes of its own, credits him with merely saying there were laws which he would not obey and others which he believed to be unconstitutional, or words going no further in effect. This, we claim, is totally unfair. A person on trial before a court should receive the greatest possible leniency and privilege, for the reason among others that one man, and he the one alleged to be offended, instead of twelve men having neither friendship nor hatred and having no interest in the result, tries him. To garble his language and pervert his meaning, is inexcusable; yet, we submit to the unprejudiced judgment of any impartial man cognizant of all the facts, if this was not done in the Miner case, not only by the Court, but by the two attorneys who subsequently assisted him in the consummation of his measure of oppression.

His honor then goes on to show that an attorney may be removed or suspended upon his conviction of a felony or misdemeanor involving moral turpitude, and seeks to establish the point that such turpitude exists in the case of Mr. Miner. It is a labor requiring considerable sophistry, some little argument, an avalanche of words and a plentiful lack of logic to evolve moral turpitude out of the conditions of the matter under discussion. The manifestations of such a state of mind or habit as that, are complete depravity, looseness of conduct, absence of chastity, addiction to vice and a benumbed state of the higher faculties. It is scarcely necessary to resort to proof or argument to rebut so monstrous an assumption as that any one of those specifications is attributable to Mr. Miner; because, in the first place, most of the readers of the NEWS have known him for many years, either personally or by reputation, and know the contrary to be the case in each and every instance; and, secondly, it was not proved, so far as by bare implication even, by the gentleman's prosecutors and persecutors, that such or any of them were the case. The *ipse dixit* of the Court, even though aided and encouraged by two attorneys, establishes nothing, in view of the fact that they were, as previously shown, bent upon the consummation of ulterior purposes, all forming part and parcel of a previously designed programme.

The remainder of the Judge's ruling in the case is simply a disquisition on marriage in general and polygamy in particular; "Mormonism" being the objective point in this as well as all other discussions by his honor when a "Mormon" is on trial, and several doctrinal points being raised, we reserve the review of that portion of the document for another time.

The principal point made in the foregoing, that under a thin guise of law our religion and our people are being mercilessly assailed, obtains with nearly equal force in the case of Andrew D. Burt, who was on Saturday adjudged in contempt, fined $150 and ordered imprisoned for five days. His offense was assaulting an individual of doubtful reputation but not at all doubtful behavior, named Henry G. Collin, a person who wears the livery of the United States Marshal, and makes himself conspicuous after the fashion of some other animals, by being supremely offensive. Burt had no right to take the law into his own hands, and was intercepted before he had proceeded very far; nevertheless he was arrested, tried, convicted, and fined $31.50 for striking the two blows which constituted the offense. The fine was paid, and those who know all the facts and are unprejudiced, will say that it ought to have been a complete expiation, as it was several dollars more than has ususually been taxed for that offense. But such an opportunity to establish the supremacy of a "Liberal" deputy marshal over a mere "Mormon" deputy sheriff, was not to be lost; and as Collin had a subpœna in his pocket, issued from the Third District Court, here was a fine opportunity; it could be made to appear by statements that an officer was intercepted in the discharge of his duty, the facts going to show, however, that there was no interception, that the assailant was ignorant of what business the assailed was engaged in, and only sought satisfaction as any individual might of another. The thought of committing a contempt or of treating the court's process lightly, did not enter his head—yet Judge Zane held substantially that the overt act was sufficient, intent or no intent; and imposed the monstrous penalty mentioned above in addition to what had previously been inflicted. A long lecture preceded it, in which the majesty of the law, the dignity of the Court and the authority of the government loomed up glaringly at intervals: but suppose Burt had been the deputy marshal and Collin the sheriff, what then? Wouldn't it have been the other ox that was gored? We think so.

WAR IN EUROPE.

SERVIA has formally declared war against Bulgaria, and the order from the government of the former to cross the frontier which divides the two nations has been obeyed, with hostilities on a minor scale the rule of the hour. It is probable that news from that quarter will now and for some time (how long no one can venture a guess) be the absorbing object of news gatherers and readers. Like many other conflicts which have startled the world before they were completed, this one begins humbly, so to speak; two petty European states are all that are involved actually so far; but we all have seen that war was brewing in the vast scope of territory bounded on the south by the Bosphorous, the Marmora, the Dardanelles and the Ægean, on the west by the Adriatic and on the north by the southern limits of Austria and Russia, and it has taken a position somewhat central. But will it be confined to its present scope? From the warlike preparations made and still going on in other parts of Europe, it is reasonable to conclude that it will not, but that it will spread and perhaps involve its surroundings for a thousand miles or more on either side. Then may come the question of absolute supremacy among the nations of the Old World, and the civilized, semi-civilized and barbarous states be plunged into a war meaning subjugation for many and conquest for a few — or it may be a work of comparative annihilation, ending only in the weakness and helplessness of all.

These are the days when we are admonished to look for wars and rumors of wars; the rumors have been rife for a long time, and the wars have come The misery, suffering, despair and death which will follow, if not at once then shortly after the present outbreak, cannot be estimated even after it is all over; and when that will be, God only knows.

JUDGE ZANE ON MARRIAGE AND MORALITY.

IN the disquisition upon morals and religion which Chief Justice Zane thought proper to indulge on Saturday, in his strained excuse for disbarring Mr. Aurelius Miner, his honor simply dressed up some old feeble platitudes in the new garb of his own rhetoric. On questions of law he is to be looked upon as an authority because of his office, although his diverse and contradictory rulings on the same questions do not entitle him to great respect in that capacity. But when he invades the domain of religion and morality, he is open to the fullest criticism.

It is claimed by some of our opponents that the polygamy question has been thrust upon the attention of the country by the "Mormon" leaders. The truth is that it is assailed by others, and the "Mormons" are continually placed on the defensive; hence the conflict. And the arguments against the doctrine and practice appear so weak when placed in contrast with those in its defense, that rage gives place to reason in the attacking party and force is demanded to effect what argument has failed in. Judge Zane goes out of his proper sphere to combat polygamy on moral and religious grounds, and we take up the gauntlet.

After alluding to the various schools of ethics, showing that our opponents are greatly at variance among themselves upon very important premises, his honor lays down the principle that "justice (which is equalness) is right." We are pleased to see him acknowledge this simple proposition in theory, but would think more of its enunciation from him if he better regarded it in practice. And we doubt if the parenthetical remark that "justice is equalness" will bear the test of crucial examination. These are times in which equalness would be *in*justice, and this is evident not only from the unequal distribution of divine gifts but, coming down to the sphere of the courts, in the infliction of penalties and of judicial sermons in different cases. Justice is not always equalness, but justice is always right, and on the same principle, injustice is always wrong, an axiom which we hope he will always remember in future, however forgetful of it he may have been in the past.

Bringing this principle to the question at issue, he proceeds to argue on the equal duties of husbands and wives, with the view of making it appear that plural marriage must involve an unequal and therefore unjust contract. And he assumes that neglect of the duties of the husband to the wife must ensue if the husband divide his attention with other women. But this is nothing more than bare assumption, and could be equally applied to the duties of a mother towards her child, leading to the conclusion that no more than one child should be had in a family because it needs a mother's undivided attention. Indeed, the same kind of reasoning as the Judge resorts to, has led many people in monogamous society to this conclusion, as a very gross and murderous custom associated with that form of society bears witness.

Comparison between masculine and feminine powers and capabilities shows beyond doubt that there are "duties and obligations belonging to the relation of husband and wife" which the man is able to discharge in a far greater degree than the woman is able with due regard to her physicial condition under many circumstances, to receive. Especially is this the case with a robust, vigorous and healthy husband and a delicate, nervous and comparatively fragile wife and mother. If by mutual consent the husband bestows some attention and gives some support to another wife or other wives to their satisfaction, where is the injustice? It does not follow that any neglect of the one wife is necessary to his duty to others, any more than that a mother must neglect the first child in performing her duties towards others that may become part of her household.

And it is perfectly compatible with justice (and therefore with morality from Judge Zane's standpoint) that the wife shall discharge all the duties and obligations of her relation to her husband while the husband, with her consent and without neglecting her, bestows a portion of his time and attention upon other wives taken in accordance with the original contract. And seeing that plurality of wives is a doctrine believed in by both parties to the first marriage, and the contract was made on the understanding of the right of the husband to enter into its practice, it will be rather difficult for even a casuistical jurist to demonstrate its injustice.

He says that polygamy is based upon the idea that woman is man's inferior. But most of his argument does not relate to "Mormon" plural marriage, it is directed against Asiatic polygamy, which is another thing. It is not true, except in one sense, which all candid people will admit to be correct, that plural marriage is founded on the idea