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TRUTH AND LIBERTY.

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A CRIME WORTHY OF DEATH.

A BILL has been introduced into the Indiana Legislature providing for the punishment by death of persons convicted of outraging women. We consider this a righteous measure. The popular verdict is that a man guilty of such an offense ought to be killed. When a husband, father, brother, or other near relative takes the law into his own hands and "vindicates his honor" by slaying the perpetrator of a crime which naturally arouses the most intense feeling of resentment, it is seldom, especially in this country, that a jury can be impanneled who will convict him of murder. This is because the public sentiment is in favor of a penalty upon the villain greater than that which the law provides.

And yet, under the codes which prevail, the man who, under such circumstances, is allowed to go free is the greater criminal of the two. The scoundrel who committed the outrage could, under the laws, be at the most committed to prison for a term of years, while the avenger, being guilty of shedding human blood intentionally is liable to the extreme penalty. Thus the laws are at fault and should be remodeled. If the brute who outrages a woman is worthy of death, the law should make the punishment capital. If the offence is not properly punishable by death, then the man who takes upon himself the responsibility of inflicting such punishment is guilty of murder and ought not to go scot free.

In a civilized country private vengeance should not be allowed nor be necessary. No individual should be required to inflict a penalty upon the invader of human rights or the violator of any law. The power that makes the law should provide means for its enforcement and vindication. Every man's honor, and every woman's virtue should be protected by the law. It is wrong to require any private person to perform a duty which belongs to some public functionary. The officers of the law should inflict the penalties of the law. And yet if a wife be outraged, society expects the husband to inflict summary vengeance on the villain who committed the dastardly deed, the father to vindicate the honor of his daughter, the brother to thus defend his sister. This is all wrong. The law should make the penalty adequate to the crime, and provide the means and the officer for its proper enforcement.

When a private individual smites unto death the betrayer of his family peace, he does it in the spirit of revenge. But when the law takes its course the punishment is of a different nature; it is for the vindication of justice and the protection of society. The latter should be sustained, the former should be discountenanced. When there are proper penalties for crime and they are justly and fairly enforced, there remains no excute for private vengeance, and he who then indulges in it ought to suffer the punishment in such case provided. The law should put it out of the need of the individual to retaliate, and then if he breaks the law he should be as certainly punished as the transgressor upon whom he presumed to take vengeance.

If the Indiana bill becomes a law and is enforced, it will make sure of one thing: The wretch who outrages a woman will never commit a second offence after he is convicted. This is how it should be. Virtue is popularly supposed to be dearer than life. The practice ought to comport with the theory. If, then, he who takes life unlawfully is worthy of death, should not he who forcibly takes that which is more than life also suffer the extreme penalty? We think so, and would have the law everywhere in accordance with that principle.

In all parts of the civilized world crimes against woman's honor are treated too lightly. Seduction is usually condoned with cash. Money in Christendom covers a multitude of sexual sins. A civil suit for damages is the legal remedy for a husband or father whose home has been invaded by a human wolf, that ought to be killed in the most ignominious manner. The system is all wrong and in the interest of the libertine. We would throw the door of matrimony wide open and make marriage easy and possible to all. And then we would impose heavy penalties upon the intruder into the sacred temple of woman's virtue, and would have the scoundrel who forcibly outrages any woman maid, wife or widow, die the death of a dog. We hope the Indiana bill will become a law and a precedent for all other portions of the Union.

CHALLENGING GRAND JURORS.

IN the Third District Court, yesterday, during the empanneling of a grand jury, Zera Snow, as assistant Prosecuting Attorney, questioned the persons drawn as to whether they had cohabited with more than one woman in violation of the Edmunds law. Objection being made to this proceeding, E. T. Sprague, acting for District Attorney Van Zile, explained that under the eighth section of the Edmunds law, no polygamist, bigamist or person cohabiting with more than one woman is entitled to hold any office or place of public trust, honor or emolument in this Territory, and it was desirable to learn whether any of the persons drawn for grand jurymen were thus disqualified. He considered that he had the right to test the qualifications of the men presenting themselves for this important position, by questions in regard to their practice or belief in polygamy.

His Honor, Judge Hunter, ruled that a juryman was not incapacitated from serving under the section of the law referred to, unless he had been convicted of either of the offences named. But, he added, if the Prosecuting Attorney would inform the Court that he expected to bring, during the present term, a prosecution for polygamy, bigamy or unlawful cohabitation, he would allow such challenges as that officer demanded. Mr. Sprague could not say definitely that he expected to have any prosecutions under the Edmunds law during this term. The Court then would not allow the inquisition to proceed further, as he wished to expedite the business of the term.

For this the public may expect that the Judge will be blamed by the radicals. To gain or keep their favor he must rule all the time according to their extreme notions and partizan feelings. If he does not decide in a positively anti-"Mormon" manner, no matter how much the law may be on his side, he will be subject to "Liberal" abuse. Let us see whether, in this instance, Judge Hunter has decided according to law.

Section Eight of the Edmunds Act does not relate specially to either grand or petit juries, but disqualifies any polygamist, bigamist, or person cohabiting with more than one woman or woman cohabiting with either of the aforesaid, from voting at any election or holding any office either in the Territory or under the United States. But how is the fact to be ascertained? The law provides for no inquisition such as the Prosecuting Attorneys wish to institute, and no catechism such as they have tried to formulate. Conviction of either of the offences named would disqualify, but suspicion or hearsay would not, and the accused person cannot be compelled to give evidence against himself.

Further, the Edmunds law makes special provision in regard to persons drawn to serve on juries, in the fifth section. Challenges are therein allowed against any person drawn or summoned as a juryman or talesman, as to his practice or belief in the rightfulness of polygamy, bigamy or cohabitation with more than one woman. But this is only in case of a prosecution for either of those offences. It is evident from this that Section Eight is not intended to apply to the empanneling of a jury, also that the application of Section Five is restricted to prosecutions for polygamy, bigamy or unlawful cohabitation.

In refusing to permit challenges under Section Eight of the Edmunds law, then, Judge Hunter was clearly in the right, and we do not think any lawyer would dispute that fact unless it were for a purpose. But, in our opinion, His Honor would be wrong in permitting any challenges at all of that nature to a grand jury. The law plainly provides for such challenges only in cases of prosecution for either of those three offences. There can be no such prosecution until an indictment is found. A grand jury must first consider the matter. No grand jury is empanneled for the special purpose of indicting polygamists, bigamists, or persons cohabiting with more than one woman. Grand juries are required to perform a variety of duties, and to enquire into all kinds of offences. How can a grand juror be excluded from inquiring into a case of larceny, or assault, or murder, under the provisions of Section Five? It cannot lawfully be done. It is evident from the wording of the law that the challenges allowed are provided for the trial juries only in the prosecutions named. The District Attorney does not know whether there will be any prosecutions under the Act, until the grand jury has inquired into the accusation and found a true bill or ignored the complaint.

When an indictment is found, then a jury is empanneled for the purpose of trying that particular case, and under Section Five of the Edmunds Act challenges may be allowed, so that no person who either practises or believes in the rightfulness of the offence charged shall sit on the trial. Anything beyond that, we think, is in excess of the law, and ought not to be sustained or countenanced by the Court.

It is a difficult thing for a Judge to stand firmly by the law in this Territory. For; the theory which has obtained here is, that the Court as well as its officers is arrayed against a system existing here. To use the foolish words of a partizan Judge now deceased, "It is Federal Authority against Polygamic Theocracy," in which the Judge is supposed to represent the former at war with the latter, instead of an impartial arbiter of cold and passionless legal propositions and disputes. But though this difficulty exists, the Judge who has stamina enough to stand by his own convictions of right, reached by duly weighing law and reason, unswayed by clamor or fear of blame, will, in the end, prevail and gain the regard of all people whose opinion is worth having, and what is more to a great mind, will preserve his own self-respect and the consciousness of rectitude. He who maintains the right will eventually triumph, while he who bends to the favor of a clique or the wrath of the rabble will go down to ignominy or oblivion.

THE CONSTITUTIONAL RIGHTS OF TERRITORIES.

THE telegraph brings the following news from Washington, under date of February 4th:

"Judge Black in his argument before the House Judiciary committee against the constitutionality of anti-Mormon legislation, took the ground that the matters to which these laws relate were in their nature more purely domestic, private and local than any other to which human legislation applies. The Mormons have the right to make their own laws on the subject. The right belongs by nature, and it is a great principle of universal law to every separate community to settle upon the public lands with the consent of the Federal government. When these people colonized themselves beyond the limits of a State, they did not leave their liberties behind them. The freedom of the community results necessarily from the freedom of the individuals that compose it. This was the very principle that triumphed in the success of our revolution. No one can deny it, except for occasion, which would have made him a Tory in 1776. The right of local self-government is reserved by the Constitution to the people of Territories as distinctly and clearly as to States, and is a subject upon which Congress cannot legislate in a State, and is manifestly beyond its power in a Territory. What is called the Edmunds bill, (but what the Senator of that name certainly did not draw), expressly puts its constitutionality on the exclusive jurisdiction of the United States in Territories. Judge Black denounced this as simply a fabrication; no such jurisdiction is given, nor any jurisdiction at all over local affairs in Territories, more than in States. The powers not given are withheld. This is a mere usurpation; a gross violation of the Constitution, which is wilfully committed; is heinous. Judge Black concluded with the assertion that the bill is one of pains and penalties, not to punish polygamy, but to strike the whole people of a Territory with the blasting curse of political slavery, and protested against all this legislation as a perfidious outrage upon the civil liberty of the people, who are, and of right ought to be, free.

The eminent jurist who has been engaged in battling for the rights of the people in the Territories, will be censured by rabid anti-"Mormons" for the position he has taken in regard to the special legislation designed to suppress the system known as "Mormonism." But he is able to endure all that and much more. It makes little difference to him how much the priests and the press writers disclaim against him. He has a national reputation. His position is assured. He is no candidate for public plaudits or canvasser for public office. He is acknowledged as the foremost constitutional lawyer of his time, and can afford to pass on his way heeding not the jibes or the anathemas of the low-lived or the conspiring.

Judge Black stands as the champion of the constitutional and natural rights of the people against the encroachments of excessive Federal authority. He is not merely defending the "Mormons" or the people of Utah, but maintaining the rights of the citizens of the United States in all the Territories. A doctrine has obtained, springing from Republican notions in opposition to Democratic principles, which makes the people of a Territory the vassals of the general Government. It is contrary to the fundamentals of our national system. It denies in effect that all power springs from the people. It makes the declaration of rights on which the Constitution is based to apply only to organized States, leaving the people of the Territories outside its pale. It makes Congress supreme and the citizens of Territories politically impotent. It is a monstrous doctrine, utterly at variance with the institutions of our country and hostile to the Declaration of Independence and the Supreme Law of the Land.

The excuse on which the absolute power of Congress over the Territories is predicated is of the most flimsy character. That power has been allowed to prevail and grow into a shameful abuse by the force of might over right. That excuse is entirely comprehended in a very strained construction of the clause of the Constitution in Article Four, which says, "That Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States." The very language used should be sufficient to refute the inferences that have been drawn from it. Can Congress "dispose of" the people? Are the people the "property" of the United States? Yet on this clause alone is predicated the whole power which Congress has claimed and exercised to do as it pleased with the people living in those portions of the country outside of the States. The "exclusive jurisdiction" of Congress "in all cases whatsoever" is limited by the Constitution, in Section 16 of Article One, to such district (not exceeding ten miles square) as may by cession of particular States become the seat of government, and such places as may be purchased by the consent of the Legislatures of the States for the erection of government buildings. Thus limited, it is extraordinary how Congress has been permitted to encroach upon the rights of the people who are founding new colonies to become States of the Union.

The whole theory of territorial serfdom and congressional supremcy over citizens outside of States is erroneous, because subversive of the very principles which are the life of American liberty, and it must at some time be thrown down or reconstructed. And the man who steps forward to grapple with the wrong which is being done to a large number of the most enterprising of the country's citizens, is deserving of the support and encouragement of all lovers of freedom and equal rights. And if in his patriotic labors he is incidentally defending an unpopular community, that ought not to affect the opinion of his compatriots in the slighest degree. His work is on the side of constitutional freedom and human rights, and in opposition to that centralization of power which is the most potent force at work for the destruction of the grandest system of government ever organized by man.

Let the haters of the "Mormons" howl if they please; let those who have set their wits to work to bring this fair Territory under complete bondage to a set of grasping adventurers, cast their filth at the great jurist who is vindicating popular rights and constitutional law; but let all people who wish for the maintenance of personal freedom and the right of local self-government, join with Judge Black in demanding for the Territories their constitutional rights even if the misunderstood "Mormons" should come in for their share of that liberty which ought to be enjoyed by all.

LOCAL AND OTHER MATTERS.

FROM FRIDAY'S DAILY, FEB. 9.

Wiggins Withdraws. — A dispatch says it is reported that Wiggins withdraws his prediction about the March 11th wind Storm. This is premature. Wiggins should wait till after that date and then withdraw. In view of the failure of his prognostication of to-day he should withdraw from the role of weather prophet. He is evidently not a weatherwise Wiggins.

A Broken Thumb.—This morning a city prisoner named Price was engaged with some other men removing iron rails. The frost caused his glove to adhere to the iron. Before he could withdraw his hand a rail was thrown accidentally upon his thumb, breaking it so that it bent clear back upon his hand. He was taken back to jail, where his injury was attended to by the city physician.

A Decided Hardship.—We learn from Brother Geo. W. Bailey, of Forest Dale, Grant County, New Mexico, that the settlers on that part of Uncle Sam's domain have been notified from Fort Apache that they will have to abandon their homes, which are claimed to be on the Indian reservation. This notification is in the face of the fact that the land has been sectionized, and the Reserve lines have not yet been run. This proposed compulsory abandonment is a decided hardship to the settlers.

Burglary at Castle Dale.—During the night between the 2nd and 3rd insts., the Co-op. store at Castle Dale Emery County, was broken into by burglars, who carried off what cash they could find, about six dollars, and a quantity of tobacco. They broke a panel of the door, but failing to open it, they burst away the casing to which the lock-catch was attached, with a crow bar or other strong implement, and thus gained easy entrance. We are indebted for the information of the affair to Brother Jasper Peterson.

Temple Work.—This morning we had the pleasure of a call from Brother Moses Dudley, of Willard, Box Elder County, who has just come up from St. George, where he has been at work in the Temple since last October. He and companion missionaries had an excellent time. Most of the other brethren and sisters engaged in a similar capacity during the winter have either returned to their homes or are now on the way. Among those who have been doing temple work for several months past are Brother and Sister Standring, of Lehi. Bro. Samuel Roskelly, of Smithfield, is still at St. George, where he will probably remain for several weeks longer.

Miners' Strike. — The Pleasant Valley coal miners struck on the 2nd inst., on account of powder befug raised from $5 to $5.50 per keg. Not more than half the miners were in favor of a strike, but out of about 100 men only one dared to go to work. Mr. David Williams, coal mining operator, considers it robbery to compel him to sell an article of merchandise at the figures the men demand. He holds that they might as well say "If you don't sell sugar at less than cost, we'll damage you." Mr Williams claims that he was losing on powder and when he rais-