

other. The statute of my own State excepts all confidential communications whether from one party to the other or which may have been made from either party to another person in the presence of the other party; and so by general expression restricting anything which can infringe upon marital confidence. It has come to be the settled rule in our State that nearly everything which can be really available in the maintenance of a prosecution against any party by virtue of the testimony of the wife or of the husband is excluded.

Nothing could be much broader than the language made use of in the first section of the bill, which I have now before me, and which reads:

The lawful husband or wife of the person accused shall be a competent witness, may be called and may be compelled to testify in such proceeding, examination, or prosecution without the consent of the husband or wife, as the case may be; but such witness shall not be permitted to testify as to any confidential statement or communication made by either husband or wife to each other during the existence of the marriage relation.

Any statement that may have been made before is, under this provision, competent testimony; but such a statement is just as likely to interfere with the sacredness of the marriage relation, the marital confidence, as though it were made afterward. What is the specific object of this testimony? It is to afford the foundation of the prosecution, which would not otherwise be maintained.

Now let us see how this will operate in practice. Here is the lawful wife living in association with it may be one or nineteen or twenty females. She has the rights of the legitimate wife and her children have all the rights of legitimate children. When there is no power by which a prosecution can be initiated and maintained from all these other sources of testimony, she is to be dragged upon the witness-stand against her consent and compelled so to testify as to maintain the prosecution and liberate the man who has committed this wrong upon herself and upon her children from all obligation for her sustenance and place him in the common jail or the penitentiary.

Besides the wrong which she has already suffered she is obliged to subject herself to this in addition to all the rest. It seems to me inconceivable that a statute of the United States should be enacted into a law at this stage of the nineteenth century with such a palpable result of injustice and outrage and wrong as this.

Of course it is not necessary to call the wife at all if the prosecution can be maintained otherwise. She is to be put upon the stand simply because by her testimony she is to convict; and thus this woman, having all legal rights, having suffered all these legal outrages for which the husband is to be prosecuted, is to be made the instrument of depriving herself and her children of all sustenance and all support such as she is entitled to receive from the man who has committed the wrongs.

There is no statute of any State in the United States or any Territory of the United States that is capable of inflicting this injury, and for the Senator from Vermont to claim that the statutes of New Hampshire or the statutes of any State that have been adduced here are capable of any such violation of what is called marital confidence and inflicting an injury of this description upon society, I think it is a very great misapprehension. I do not say that it is a perversion, for in the hurry and rush incident to the management of this bill, so full of new ideas and novelties, he has overlooked perhaps, I know he has overlooked, the real force and effect of the statutes so carefully guarded, which do to some extent relax the common law, but every one of them has been enacted for the purpose of promoting, vindicating, strengthening, and building up the sanctity of the marriage relation rather than destroying it.

On the 8th, of January Mr. Blair further spoke on this subject, as follows:

Mr. Blair. I quite agree with the Senator from Vermont when he says that if the statute provides simply in express terms that the husband or the wife shall be a competent witness, and there be no restriction upon the expression, the witness may be compelled to testify by the ordinary process of compulsion known to the courts. I think it is due to the Senator from Vermont as well as to myself, after all that has been said in regard to the statute of New Hampshire, that I place her statute upon this subject on the record, and I may say that so far as I have had any opportunity of examination this is the broadest statute in the way of liberalizing the common law that I have found anywhere. The sections of the statute of New Hampshire which bear upon the subject are as follows:

Sec. 20. A husband and wife are competent witnesses for or against each other, whether joined as parties or not, in all cases both civil and criminal.

Sec. 21. The preceding section shall not be so construed as to render competent the testimony of a husband or wife for or against each other as to any statement, conversation, letter, or other communication made by either of them to the other or to any other person; nor as to other matters when it appears to the court that the examination of either as a witness in relation thereto would lead to a violation of marital confidence.

This statute has been so limited in its practical application by the discretion of the courts that, as stated yesterday, although this statute has been

one of the laws of our State since about 1866, I have never known an instance where in any criminal proceeding the wife has been compelled to testify against the husband in any case whatever, and my colleague (Mr. Pike) not now on the floor of the Senate, certainly a lawyer of as large practice as any one whom I have ever known at the bar in our State, informs me that he has known of no such instance. The statute has never been so construed, in any criminal proceeding at least, as to compel the husband or the wife to testify against his or her will; and, as will be seen from the exceptions mentioned in the statute itself, there would be but very little ground on which testimony from either of those sources, the husband or the wife, could be drawn for use in a prosecution.

The senator from Vermont cites this statute and says to the Senate that it is substantially a precedent for the language which is employed in the bill. The language of the bill provides that—

The lawful husband or wife—

I emphasize the word "lawful" because in the discussion yesterday I found that some Senator supposed that this objection was all against the compulsory testifying of those women who were not wives, but the illicit associates of the Mormons. Let me remind Senators, if there are any who have not read the bill as yet or who do not comprehend what it is all about, that this is a provision that the lawful wife shall be compelled to testify against her will. That is all that is being objected to here. I was about to read the language itself, so that it may appear in connection with that of the statute of our State:

The lawful husband or wife of the person accused shall be a competent witness, and may be called and may be compelled to testify in such proceeding, examination, or prosecution without the consent of the husband or wife, as the case may be; but such witness shall not be permitted to testify as to any confidential statement or communication made by either husband or wife to each other during the existence of the marriage relation.

How much of an exception is that? How much does this proposed statute lack of being one absolutely repealing the common law upon this subject and making the husband and wife witnesses in precisely the same way that they would be if the marriage did not exist between them? Whatever the husband has told the wife of an offense of this kind she cannot testify to. How much knowledge is a wife likely to acquire from the voluntary communication of the husband in reference to a crime of this description? This is the only exception. The statement of the communication made directly from one party to other is the only exception. Everything else may be testified to.

Let us see precisely what is the issue raised by the pending amendment. The language of this section, if the amendment should be adopted, would still give the government the control of the testimony of the husband or the wife whenever either is willing to testify, and all the facts that may be pertinent in the way of evidence for sustaining the prosecution. It gives everything whenever such persons are willing to testify. We might well suppose that if the wife felt upon the whole that she was outraged and it was for her interest to testify in these prosecutions there would be no occasion for anything more than simply a statute which should permit her to do so. That the amendment of the Senator from Georgia proposes to give, to so far modify the common law as in all cases whatever to allow the parties to testify when they are willing to do so. Then what is it that is desirable here? What is it that the Senator from Vermont desires? Simply to compel the lawful wife to testify when she does not want to do so. There is no controversy about anything else. You have all the rest.

Now let us see in what cases a wife is likely not to desire to testify in such a way as to punish the husband who has committed this great wrong upon her. Can we conceive of any instance except where she knows it to be for her personal interest not to punish the husband? We can readily conceive that in that distant Territory, among that pauper-stricken population, as many of them are, for a Mormon is not ordinarily a wealthy man, the lawful wife is entirely dependent upon the personal exertions of the husband for her maintenance and support and for that of her legitimate offspring. If she is not, if she can maintain herself and feels her outrage, is she not likely under the measure as we propose to have it, to take the stand voluntarily and testify against her husband? But, as I said before, if she is not willing to testify, can it be for any reason except that she feels that in addition to the wrong the husband has done to her by this wicked association, she herself is called upon to take the stand, and by her testimony to become a principal witness in maintaining the prosecution, for she is not the chief witness. They can maintain the prosecution otherwise without this proposed statute, and she is to be compelled, after the injury the husband has already perpetrated upon her, to give the very testimony which may turn her out of doors to starve.

It is that feature alone which is before the Senate, and it is that point alone in the proposed statute to which I object. I do not feel called upon, as I think other Senators do, apparently, to disclaim that I have any sympathy with the Mormons. It never occurred to me that it was necessary in my State or anywhere else to guard against any

supposed sympathy I might have with the Mormon Church or the Mormon principle. I want to see it destroyed, but it does seem to me, when there is nothing at issue so far as this section is concerned between the Senator from Vermont and those who object to the first section except the question whether the wife is suffering a great injury shall be obliged by her own testimony to inflict still more, that he might concede that much to those who would like to arrive at the purpose of this bill and yet not be called upon thus to perpetrate an injury upon those unoffending and already long-suffering wives in the Territory of Utah. That is all there is about it.

I think the Senator ought to be willing to modify his bill so far as that is concerned. It is very palpable to everybody that he is entirely wrong in supposing there is a single legislative precedent on the face of the earth for what he purposes to do here. Not one at least has been adduced here.

**KILLING OF THE WRIGHT BROTHERS.**

We have received from Alonzo H. Packer, of Layton, Graham County, Arizona, who writes under date of Jan. 10, 1886, the following particulars of the death of Lorenzo and Seth Wright:

"On November 30th there was a general meeting held here. On arriving home at 9 o'clock in the evening it was ascertained that some horses tied at the corral of Frank Lee had been cut loose and stolen; also that a number of horses that were running on the range near town were missing. About 11 o'clock at night Lorenzo and Seth Wright, R. Welker, W. Morris and F. Lee started after the stolen horses, and by the aid of a lantern the trail was easily followed. Six miles distant the thieves halted, and the boys came up and cut out a number of horses. The moon had just risen. One of the thieves was seen, when Seth jumped from his horse and was just ready to shoot, but Lorenzo told him not to do so. Seth's horse got away and went into the stolen band of horses when two of the boys rushed in and got the animal, in doing which they came close up to two more of the thieves who jumped from their horses and hid.

Two of the boys then went to Solomonville to get more help, when Sheriff Stevens and two other men joined them.

Before they returned the thieves had moved on. The boys followed in the morning, and saw some men camping by the road side. On inquiring they learned that the thieves went around them, but some of them had been seen and were described to the boys as being Mexicans. Stevens said 'Rush on boys, they are Mexicans, and there is no danger.' The sheriff's horse began to lag, when he said, 'Boys, if you will let me have the best horse, I will take lead.' Lorenzo and Seth were riding the best horses, but neither saw fit to exchange horses, but F. Lee did, and while they were changing horses and saddles, the boys rushed on. Lorenzo Wright and W. Morris were riding side by side, as were also Seth Wright and R. Welker, when they were fired at by Indians, who lay in ambush not two rods away. Seth was shot through the lower part of the body, and exclaimed, 'I am shot!' He put his hand on the wound, his gun fell to the ground and his horse ran with him some 200 yards, when Seth fell off and was shot again under the left eye.

"When Seth said 'I am shot,' his brother Lorenzo jumped from his horse to the ground, took deliberate aim and shot at an Indian, and was just ready to fire a second shot when his right arm was broken, after which he was unable to use his gun. He then tried to make his escape by running, but was shot through the back while running in a stooping position, the ball coming out at the breast. Two balls struck one of his legs; he also received a shot on the top of his head at close range, probably after he was dead. Had they known they were Indian thieves instead of Mexicans, they would not have met such a fate.

Thus we are called to mourn the loss of two promising young men, who in life were together and in death are not separated, for they lie side by side in one grave, sleeping that quiet sleep that awaketh not into this world of sorrow. They were sons of the late Jonathan C. Wright, of Brigham City, Utah.

"Lorenzo was 31 years of age, and leaves a wife and four children. Seth was 21 years and 9 days old, and leaves a wife and one child."

**JUST AS BAD AS PAINTED.**

WIDESPREAD COMMOTION CAUSED BY THE TERRIBLE CONFESSION OF A PHYSICIAN.

The story published in these columns recently, from the Rochester, N. Y., Democrat and Chronicle created a great deal of comment here and elsewhere. Apparently it caused even more commotion in Rochester, as the following from the same paper shows:

Dr. J. B. Henion, who is well known not only in Rochester, but in nearly every part of America, sent an extended article to this paper a few days

ago, which was duly published, detailing his remarkable experience and rescue from what seemed to be certain death. It would be impossible to enumerate the personal inquiries which have been made at our office as to the validity of the article, but they have been so numerous that further investigation of the subject was deemed necessary.

With this end in view a representative of this paper called on Dr. Henion at his residence on Andrews Street, when the following interview occurred: "That article of yours, Doctor, has created quite a whirlwind. Are the statements about the terrible condition you were in, and the way you were rescued, such as you can sustain?"

"Every one of them and many additional ones. I was brought so low by neglecting the first and most simple symptoms. I did not think I was sick. It is true I had frequent headaches; felt tired most of the time; could eat nothing one day and was ravenous the next; felt dull pains and my stomach was out of order, but I did not think it meant anything serious. The medical profession has been treating symptoms instead of diseases for years, and it is high time it ceased. The symptoms I have just mentioned or any unusual action or irritation of the water channels indicate the approach of kidney disease more than a cough announces the coming of consumption. We do not treat the cough, but try to help the lungs. We should not waste our time trying to relieve the headache, pains about the body or other symptoms, but go directly to the kidneys, the source of most of these ailments."

"This, then, is what you meant when you said that more than one-half the deaths which occur arise from Bright's disease, is it Doctor?"

"Precisely. Thousands of diseases are torturing people to-day, which in reality are Bright's disease in some of its many forms. It is a hydra-headed monster, and the slightest symptoms should strike terror to every one who has them. I can look back and recall hundreds of deaths which physicians declared at the time were caused by paralysis, apoplexy, heart disease, pneumonia, malarial fever and other common complaints, which I see now were caused by Bright's disease."

"And did all these cases have simple symptoms at first?"

"Every one of them, and might have been cured as I was by the timely use of the same remedy. I am getting my eyes thoroughly opened in this matter and think I am helping others to see facts and their possible danger also."

Mr. Warner, who was visited at his establishment on North St. Paul street, spoke very earnestly:

"It is true that Bright's disease has increased wonderfully, and we find, by reliable statistics that from '70 to '80, its growth was over 250 per cent. Look at the prominent men it has carried off, and is taking off every year, for while many are dying apparently of paralysis and apoplexy, they are really victims of kidney disorder, which causes heart disease, paralysis, apoplexy, etc. Nearly every week the papers record the death of some prominent man from this scourge. Recently, however, the increase has been checked and I attribute this to the general use of my remedy."

"Do you think many people are afflicted with it to-day who do not realize it?"

A prominent professor in a New Orleans medical college was lecturing before his class on the subject of Bright's disease. He had various fluids under microscopic analysis and was showing the students what the indications of this terrible malady were. "And now, gentlemen," he said, "as we have seen the unhealthy indications I will show you how it appears in a state of perfect health," and he submitted his own fluid to the usual test. As he watched the results his countenance suddenly changed—his color and command both left him and in a trembling voice he said: "Gentlemen, I have made a painful discovery; I have Bright's disease of the kidneys." And in less than a year he was dead. The slightest indications of any kidney difficulty should be enough to strike terror to any one."

"You know of Dr. Henion's case?"

"Yes, I have both read and heard of it."

"Is it very wonderful, is it not?"

"No more so than a great many others that have come to my notice as having been cured by the same means."

"You believe then that Bright's disease can be cured?"

"I know it can. I know it from my own and the experience of thousands of prominent persons who were given up to die by both their physicians and friends."

"You speak of your own experience; what was it?"

"A few years ago, I had felt languid and unwell for business for years. But I did not know what ailed me. When, however, I found it was kidney difficulty I thought there was little hope and so did the doctors. I have since learned that one of the physicians of this city pointed me out to a gentleman on the street one day, saying: 'There goes a man who will be dead within a year.' I believe his words would have proved true if I had not providentially used the remedy now known as Warner's Safe Cure."

"Did you make a chemical analysis of the case of Mr. H. H. Warner some three years ago, Doctor?" was asked Dr. S. A. Lattimore, one of the analysts of the state board of health. "Yes sir."

"What did this analysis show you?"

"A serious disease of the kidneys."

"Did you think Mr. Warner could recover?"

"No, sir. I did not think it possible."

"Do you know anything about the remedy which cured him?"

"I have chemically analyzed it and find it pure and harmless."

Dr. Henion was cured five years ago and is well and attending to his professional duties to-day, in this city. The standing of Dr. Henion, Mr. Warner and Dr. Lattimore in the community is beyond question, and the statements they make cannot for a moment be doubted. Dr. Henion's experience shows that Bright's disease of the kidneys is one of the most deceptive and dangerous of all diseases, that it is exceedingly common, but that it can be cured if taken in time.

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