

# LUCIFER.

## THE LIGHT-BEARER.

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VALLEY FALLS, APRIL 1, E. M. 287.

WHOLE No. 192.

### LUCIFER--THE LIGHT-BEARER.

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PHOTOGRAPHS

OF THE

"PRISONERS."

To gratify many friends who have asked for pictures of the "unlawfully-wedded couple," and to help to defray the expenses of the defense, we offer below photographs of Lillian Harman and E. C. Walker. Lillian has never sat for cabinet negative, so we can offer only a carte de visite of her, and that from a negative taken considerably more than a year ago. Prices: Cards of E. C. Walker and Lillian Harman, Each..... 20c  
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EDITOR LUCIFER: I send you a poem written by a Rev.—no better or worse for that—which I cut from a late secular paper. Although Mrs. Druse is hung, it is a clear, keen, truthful statement of legalized murder, and ought to be circulated till such barbarous practices cease.  
FLORA W. FOX.

O, MY GOD!

Stand a woman on the scaffold, waiting, with a black capped breath,  
To be snatched, to be strangled, to be blundered there to death;  
She can feel the halter tighten, she can hear the death weight drop,  
O, my God! Before the ax falls, Governor, stop the hangman, stop!

I've a plea to offer for her that your grace hath strangely slurred,  
That to all the learned officials never seems to have occurred;

'Tis not that she is a woman, as your mother was and mine,  
Or that murder combined with murder may or may not be divine.

'Tis that he, the brute, drove her to that deed with "arguing good";  
He who cursed her, choked her, beat her, kicked her down that frozen road;

And she rebelling; is it wonder, vengeance she did not declare?  
He it was who made that murder, not that woman standing there!

'Tis his act, not hers; he bred it by brutality unknown,  
Till at last her life repleted but the image of his own.

Call it fury, call it frenzy, call it slaughter if you will;  
But whatever you may call it, he shall stand his murderer still.

Women, with your children 'round you, up, I pray you, up for her!  
With her children taken from her, shut up in that sepulchre;

By the wrongs ye too have suffered, by the hearts with anguish wrung,  
O my God! women, where are you, will ye see that woman hung?

REV. MILLER HAGEMAN.

Response to Edgeworth.

In Lucifer of March 11th, friend Edgeworth asks if Elmina repudiates the marriage laws and institutions of civilization. To those queries I would answer, No. And yet I would qualify that No by modifying the various marriage laws in different parts of the world, so as to place them on a simple basis of mutual contract.

A contract needing no more aid or witness from outsiders than any other contract, and one which may be dissolved by mutual consent of contracting partners, should they so desire.

I consider Edwin and Lillian as being lawfully married, and that the law had no right to prosecute them simply for repudiating some things which some persons hold necessary to complete a marriage.

In demanding the right of the wife to being paid her share of the mutual earnings, I do not see that I am in the wrong.

When we receive pay for our work, let it be caring for the home. Writing books, or serving as a clerk in a store, it is all wages, and where two are equal partners each shall have an equal right to the mutual income and a voice as to how it should be invested.

Marriage as it now is, I will agree to be, as a rule, "the sexual subjection of woman." But from all I can learn of those who are living together without marriage, there is about as much sexual subjection of the woman.

A majority of kept mistresses are just as much slaves to the man as if married to him, and some far more so, for they know that only love and submission will hold him.

The few enlightened Free Lovers who live in couples, may be equals in sexual privileges; but take an equal number of enlightened, educated married couples and you will find the same freedom there. I know of married couples who are varietists; each leaving the other free to seek outside loves, and then I know of others equally free who are content with the one love. So believing as I do in monogamic marriage, as the highest life for the average man and woman, I strive to so liberalize the Law as to make this the same as any other contract, and then minor matters will settle themselves according to education, progress, and enlightenment.

I believe in Alpha Continence and Diuna association. With no copulation save for parentage, the "sexual subjection" of woman will be impossible. With each coming year we shall find these terrible sexual fires growing dimmer and dimmer, and the loves of the people becoming broader and purer.

There will not be less real love, but more of it. Not less sexual vigor, but more of it. We shall not see the very word sex tabooed as something unpopular and immodest, but we shall have the whole physiology of parentage, heredity and stimpiculture taught in the home and in the school room just as freely as it now is in the mixed schools of medical students. ELMINA DRAKE SLEKKER.

### "RIGHTS OF PERSON AND OF CONSCIENCE.

Soon after the rendering of the decision of the Supreme Court in the case of Edwin C. Walker and Lillian Harman "The Topeka Capital"—official paper—published Chief Justice Horton's "opinion" entire. While in Topeka, a few days after the appearance of said article in the "Capital," we asked Major Hudson, the editor, if he would publish a reply or criticism upon Horton's opinion. He answered that he would do so provided the reply was not too "personal." With this understanding we prepared an article headed as above and gave it into the hands of the managing editor of the "Capital," who after a few days returned it to us with the explanation that "from the crowded condition of our columns the publication of your article will be impossible at this time."

We herewith give the first part of the rejected article—the latter part having been published in Lucifer of March 18.

EDITOR CAPITAL:—Please allow a citizen of Kansas to call the attention of his fellow citizens to what seems to him a great wrong inflicted, in the name of law and justice, upon two innocent and unoffending persons. It is a case wherein the rights of men and women to liberty of person and to freedom of conscience are most intimately concerned. It is a case without a parallel, so far as the writer has ever heard. Briefly stated they were convicted of violating the statutory regulations requiring a legal functionary, armed with a license, as officiator at the marriage—something not even alluded to in the section under which they were prosecuted. An appeal was taken to the Supreme Court of Kansas and after the lapse of several months the decision of the District Court in the case has lately been affirmed.

One more appeal, at least, is allowed to these defendants. The basic principles of the American government is that the people rule. The people, the voters, are the real sovereigns. Officers of all sorts, including judges, are amenable to the people for the manner in which they discharge their several functions or duties. To this court of last resort I, the father of Lillian Harman, desire, and claim it as my right, to make an appeal from the decision lately rendered by the court aforesaid.

This appeal is made,  
First, on the ground that the defendants were not convicted of the offense charged in the indictment, and

Second, that the 12th section of the "Marriage Act," as found in the Kansas Statutes, violates the basic principles of American government and is therefore unconstitutional and should be void.

First—to convict the prisoners of the crime (if it be a crime) of "living together without being married," it is absolutely necessary to show that they were not married at the time of such living together. In order to do this it must be shown that the civil contract between E. C. Walker and Lillian Harman did not amount to marriage, or, that they in their contract did not intend marriage. This latter is the view taken by Judge Valentine, but Judges Johnson and Horton (the majority) did not concur in that view as the basis of their argument. Justice Horton expressly says the "question is not whether Edwin Walker and Lillian Harman are married." Elsewhere he admits that people may marry themselves.

For this reason, if no other, we appeal from the re-affirmed decision of the District Court to the common sense of justice inherent in the minds of our fellow citizens, and we ask them to hold these judges accountable for a manifest perversion of justice and of equity in the name of and under the forms of statute law. The parties are either married or they are not. If married it is simply preposterous—to put it mildly—to punish them for "living together without being married."

Second. The 12th section of the marriage act makes it a "misdemeanor," punishable by "fine not exceeding \$1,000, and by imprisonment not exceeding three months," for persons to "live together as man and wife without being married."

Let us ask, What is the legitimate object and scope of civil government? Howard Crosby, a distinguished doctor of laws says: "If we want to keep ourselves from a paternal and tyrannical form of government we must make our laws punish crimes only." Here is the bed-rock principle of free government. The right to life, liberty and pursuit of happiness demands that civil laws shall take no cognizance of the acts of men and women until a real crime is committed. Crimes and misdemeanors cannot be created by act of the legislature." The judges of the Supreme Court are competent to decide upon the constitutionality of any law. It is certainly their duty to declare unconstitutional all laws that invade the natural rights of

the citizen. Sex-association is a natural right, and until it can be shown that these defendants (on the assumption that they are not married) have invaded the personal or property rights of any human being they must be held guiltless of any crime.

There was no pretense made by the complaining witness that Edwin Walker and Lillian Harman did an injury to him personally or to any one else, and therefore we again maintain, for this reason also, that the judges should have set aside and overruled the decision of the District Court.

It is not within the legitimate province of civil law to compel people to take care of themselves and to provide safeguards for their respective children. Those who waive their right to the record of marriage commit no crime by so doing.

### INGERSOLL ON LABOR.

A leading article in the North American Review for March, by Robert G. Ingersoll points in the right direction, and shows that the great iconoclast on religious topics is investigating other themes with as clear and logical deductions as those in which he has become so famous. We advise our readers to procure and read the whole article, as we only have room for the following paragraphs:

"In the days of savagery the strong devoured the weak—actually ate their flesh. In spite of all the laws that man has made, in spite of all advances in science, the strong, the cunning, the heartless still live on the weak, the unfortunate and foolish. True they do not eat their flesh or drink their blood, but they live on their labor, on their self-denial, their weariness and want. The poor man who deforms himself by toil, who labors for his wife and child through all his anxious barren wasted life—who goes to the grave without ever having had one luxury—has been the food of others. He has been devoured by his fellow men. The poor woman living in the bare and lonely room, cheerless and fireless, sewing night and day to keep starvation from a child, is slowly being eaten by her fellow-men. When I take into consideration the agony of civilized life—the number of failures, the poverty, the anxiety, the tears, the withered hopes, the bitter realities, the hunger, the crime, the humiliation, the shame—I am almost forced to say that cannibalism, after all, is the most merciful form in which man has ever lived upon his fellow-man.

"It is impossible for any man with a good heart to be satisfied with this world as it now is. No one can truly enjoy even what he earns—what he knows to be his own—knowing that millions of his fellow-men are in misery and want. When we think of the famished we feel that it is almost heartless to eat. To meet the ragged and shivering makes one almost ashamed to be well dressed and warm—one feels as though his heart was as cold as their bodies.

"In a world filled with millions and millions of acres of land waiting to be tilled, where one man can raise the food for hundreds, yet millions on the edge of famine. Who can comprehend the stupidity at the bottom of this truth?

"Is there to be no change?  
"Are 'the law of supply and demand,' invention and science, monopoly and competition, capital and legislation always to be the enemies of those who toil? Will the workers always be ignorant enough and stupid enough to give their earnings for the useless? Will they support millions of soldiers to kill the sons of other workmen? Will they always build temples for ghosts and phantoms, and live in luxuries and dens themselves? Will they forever allow parasites with crowns, and vampires with mitres, to live upon their blood? Will they remain the slaves of the beggar; they support? Will honest men stop taking off their hats to successful fraud? Will industry, in the presence of crowned idleness, forever fall upon its knees and will the lips unstained by lies forever kiss the imposter's hand. Will they understand that beggars cannot be generous, and that every healthy man must earn the right to live? Will they finally say that the man who has had equal privileges with all others has no right to complain, or will they follow the example that has been set by their oppressors? Will they learn that force, to succeed must have a thought behind it and that anything done, in order that it may endure, must rest upon the corner stone of justice?"

The old Levitical law made it a sin for a wife to be unwell, and prescribes the sin offering therefor.

Many of our customs and laws are about as absurd. There is ample authority for the statement that in no city or capital on the continent of Europe is there daily and nightly such shameless display of prostitution as in London.—Wm. M. McLaurie, M. D.

# LUCIFER

VALLEY FALLS, KAN., APRIL 1, 1871.

MOSES HARMAN & E. C. WALKER  
EDITORS.

M. HARMAN AND GEO. S. HARMAN  
PUBLISHERS.

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Will the gentleman who ordered a copy of Paine's 'Theological Works' please send us his post-office address.

Ye editor (of course we mean the editor who is yet "at large") made a flying visit this week to Lawrence, Kan., and Kansas City, Mo. What he saw, heard, felt and *was*, during this brief "lay off" from the treadmill duties of the office, is perhaps of no consequence or interest to the readers of Lucifer. Time and space permitting, however, we may give some account thereof in next week's issue.

Iowa is a progressive state in many directions, and sets a good example to many of her older sisters. Four of its counties, Cerro-Gordo, Henry, Osceola, and Warren have women Recorders; and ten others, Benton, Calhoun, Clarke, Dallas, Decatur, Ida, Louisa, Poweshiek and Washington have women superintendents of schools. Thirty years ago it would have been considered very immodest for any woman to officiate in so public a capacity as these women daily have to do. Yet who will now say that they are not as modest, refined and intelligent as though they had never rendered these services to the people? J. C.

English courts, like ours, have queer notions of justice. Charles Hayward has been punished by fines and imprisonment twenty-five times during the last two years for simply refusing to allow his children to be vaccinated and run the risk of their contracting infectious diseases thereby, as many others have. We utter our firm protest against any governmental or municipal edict to force a parent to vaccinate his children. Individual rights should be, and must be considered or our government will go to pieces on the rocks of political and religious tyranny. The slave-holders rebellion that ended African slavery twenty years ago is a memorable and sorrowful example of the tyranny of popular wrong over the rights of individuals. J. C.

Spring smiles once more over the landscape, bringing hope, joy and gladness to thousands of homes, and also to the homeless wanderers. To many, especially to the poor in city and country haunts, the winter has been long, dreary, full of privation, want and forebodings of worse yet to come. To many of these the warm weather brings at least temporary and partial relief, but not to all.

But little of joy, hope or gladness can come from change of season to the victims of corporate greed, the wage-slaves of the factory lords, of the coal syndicates or to those who eke out a miserable, half starved existence by piece-work and chance jobs in the great human hives, called cities. What consolation can the return of spring bring to the prisoners behind the iron bars, shut out from the life-giving rays of nature's sun—many of whom are suffering such incarceration through no fault of their own, but simply from the hatred, the envy, the malice and revenge of those who are not half so honest nor pure as are the victims they thus deprive of nature's blessed air and sunlight. To the gross, the groveling, the indolent and reckless it does not matter so much whether they are in prison or free to go where they please—so long as their animal wants are supplied. But how is it with the intellectual, the refined, the sensitive, the enterprising and actively inclined?

The monument to the memory of Giordano Bruno in Rome, is completed, but permission to erect it has been refused by the Municipal Council of that holy city. This denial is easily explained when it is learned that a majority of the council are clergymen, or under their influence. They are not satisfied with persecuting the living only, but follow the departed heroes two hundred and eighty-seven years with their vindictive authority.

This cowardly submission to the Vatican is being protested against on the part of the liberty loving people of Italy, and no efforts will be spared to have the monument erected. We glean the main facts of this case from Mr. Braden's *National Reformer*. J. C.

## A FEW THOUGHTS.

The Rev. Dr. Cheever, the eminent Abolitionist, expressed a great truth when he said of the churches, about thirty years ago: "Take away the respectabilities of wealth and fashion, and they would become a stench in the nostrils of the world." Dr. Cheever was an Evangelical divine, high in his own sect and eminent among the people, and he had ample means of knowing what the churches were. Have their creeds changed since then? Very little, if any. The steady march of progress and the increasing number of anti-Christian papers and lecturers have forced them, by the logic of events, to become more tolerant, and has produced the Swings, Thomases, and Newtons. All these have nearly put out their brimstone fires and changed their lurid, torturing hell into a softer name—*Sheol*. But their spirit remains the same, and all they want is an opportunity to reinaugurate the rack and thumb-screw to torture and burn young women, as they did the beautiful and talented Anne Askew in the sixteenth century.

What we need to-day more than anything, is practical, radical discussions of the great questions of the age; dealing calm, Herculean blows at any and everything that opposes the progress and rights of the people; extend a helping hand and a tender sympathy to all who are laboring for the liberation of the masses from king and priestcraft. Advocate equal rights and equal justice for all races and sexes. We live in an age of progress such as the world has never witnessed before. Old and miltowed institutions are passing away; superstitions and mythologies of all kinds, which have for so many centuries crushed out the noble aspirations and acts of great and beautiful minds are gradually disappearing in the warm genial sunlight of reason, justice, and a better understanding of the causes of human suffering.

"We are living, we are dwelling  
In a grand, beautiful time,  
In an age on ages telling—  
To be living is sublime."  
J. C.

## Is This a Christian Nation?

We think not, although some of our orthodox friends persist in calling it so. But persons who think and study carefully the principles upon which the government was founded conclusively declare otherwise. We here give some proofs to sustain our statement that it is in no sense a Christian government. In the treaty with Tripoli, in 1797, our government made the following report:

"The Government of the United States is not, in any sense, founded on the Christian religion. It contains in itself no character of enmity against the laws or religion of Mussulmans."

In 1865 Horace Greeley said: "This is not a Christian nation. France, Spain, Austria, Mexico, are Christian nations, no matter how many of their inhabitants may be non-Christians. This is not a Christian nation, though a majority of its inhabitants are probably Christians."

President Woolsey, of Yale college, said that "Christianity had as little to do with the law and the law with Christianity as possible."

We could give a long list of quotations to show that the founders of this government frowned on the idea that religion should have any voice in governmental affairs. Yet the "God-in-the-Constitution party" are continually devising plans to make it obligatory on everyone to help sustain Christianity and its foolish and degrading formalities. We trust a better fate awaits the American people, than to ever be forced to sustain any form of religion. J. C.

## BRADEN ONCE MORE.

The Valley Falls Register has this to say ament the failure of the proposed Braden-Stewart debate:

"It seems that the debate on the Bible between Clark Braden and O. W. Stewart, which was arranged to commence here on the 18th inst., is declared off. Mr. Stewart says he will not meet Mr. Braden because the pay was not sufficient, and for the further reason that his opponent is not a recognized representative of Christianity, etc. These parties held a two weeks debate in Newton last month, and we presume that Stewart found that Braden was too much for him and has retired to mourn his discomfiture. We had hoped the debate would occur. It would have been of great interest."

We had intended not to allude directly to Clark Braden again, but learning through the "Register" and from other sources, that the Christians of Valley Falls are crowing loudly over what they consider the cowardly retreat of Mr. Stewart, I would just say that if Mr. Gardiner and five other well-known Christians of Valley Falls will endorse Mr. Braden as an honest man and fair debater on the issues between Christianity and Secularism I will agree to find a man to discuss with him the questions upon which Braden lectured some weeks since at this place, provided arrangements can be made to have the debate reported and published. It is of but little use to refute Braden's oral misrepresentations and downright falsehoods in regard to Freethinkers and their doctrines, before a comparatively small audience. When his falsehoods have been nailed to the counter in one town he, Braden, goes to the next, opens up his mud-batteries and goes through the same tirades of defamation and abuse. Instance when he retails the thousand-times refuted slander that Thomas Paine died a drunken reprobate and was buried by Christian charity. Also, when he declares that R. G. Ingersoll's arguments are ribald jests, and that his applauders are the "lowest and most disreputable of society"—in face of such evidence as that given by the "Leavenworth Times" that Ingersoll's audiences are marked by the predominance of the "thoughtful, the cultivated and the refined."

The naked fact is that Braden's representations in regard to Infidels and Secularism, are simply truth *bradenized*—i. e., *bradenized*, or changed from genuine gold to baser metal by coming through his brain and tongue.

By this method of publication Braden's falsehoods can be daguerre-typed and sent ahead to the towns that may be threatened with an infliction from the most noted if not the most notorious of all the guerrilla champions of modern Christian warfare.

What say you to this, Messrs. Gardiner, Evans, Young, Watkins, Robinson, Wade, Bliss, Biggs, White, et al?

Since the above was put in type we are informed by Mr. N. H. Harman, who conducted the correspondence with Mr. Stewart, that an additional letter from the latter has been received in which he corrects a typographic error in our reprint of his letter in last week's issue. The word "practically" should have been *partially*. He further explains that the talk concerning a joint debate at Valley Falls occurred early in the week of the discussion at Newton, and that Mr. Braden's conduct was so grossly insulting to the audience as well as to himself—calling him a "liar," a "jackass," etc.—that "his own moderator, [Braden's] became disgusted and forsook him the third night." Mr. Stewart adds in regard to the rumor that the Liberals were disappointed with his defense of Secularism, "The amount received by me under the first arrangement was only \$40, but afterwards my friends raised it to \$100, and they also publicly presented me with a gold-headed cane worth \$35."

In addition to this Mr. S. gives the names of well known citizens of Newton to whom our friends here are requested to write if they wish to know the truth concerning these reports set afloat by Braden.

So, while it is perhaps true that as Mr. Gardiner says "Stewart found that Braden was too much for him and has retired to mourn his discomfiture," it is for the same reason that Dr. Lyman Beecher retired discomfited from his conflict with the skunk. Beecher and Stewart were well armed with logic, but logic stands small chance to win in a battle with the scent-bottle of the skunk

or the mud-battery of such as Clark Braden.

"Why, then," it will still be asked, "do you notice him at all in your paper?"

Ans. Because so long as such men as he can get the ear of the public, so long as they can get themselves invited to address our state educational institutions (as we learn Braden did at the Agricultural College at Manhattan not many months since) just so long will it continue to be necessary to warn that public against him and against his infamously false representations of Secularism and Secularists.

We therefore repeat our offer to find a man to meet Braden here at Valley Falls, under the conditions named. While it is by no means pleasant to contend against a mud-battery or a mule (Braden likened himself to a mule when he spoke of "kicking" his opponent into "notoriety") yet it is possible to keep out of the reach of our antagonist's heels, and we feel sure that the brightness of a clean life cannot long be obscured by the filth thrown from the arsenal of a man who seems to possess no better weapons.

## TRUTHS.

I have a great, and growing admiration, for what Mr. Lincoln called "the common people." They generally ask for truths. Here are a few.

1st. It is an undisputed truth that many persons are so fearful of becoming unpopular that they will not frankly communicate what they know, and when asked to give a plain statement, regardless of frowns or smiles, they squirm and either decline or write out the facts under an assumed name.

2d. It is a truth that Mr. and Mrs. Grundy rule this country with an iron hand regardless of refinement, culture, or honesty, and that the aspiration for wealth and position prompts many naturally sincere souls to stifle their best thoughts, and so disgrace, in the estimation of the good, the cause of justice and progress.

3d. It is an important truth that many people, moving in the most popular circles even, utterly refuse to tell what they know regarding the truth and usefulness of unpopular topics, yet they are often the very first ones to call for more facts, and that the same be made public by popular parties, who bear some title, if possible. They are simply moral cowards.

4th. It is a truth that if these trembling individuals—who really deserve our pity—could have had their way, the world would be still grinding corn with a wooden pestle, and it would be impossible to advance a step in science or philosophy, and the old hideous customs would reign supreme.

5th. It is a truth that some people are very sly and act as though the stars were about to fall, because these old customs, that so hold us in chains, are passing away like the bleak winds of winter. J. C.

Wayne McVeagh, a prominent lawyer of Pennsylvania, and son-in-law of Simon Cameron, said in an address before the graduating class of the medical department of the University of New York, about a year ago that law and Christianity were not progressive.

We have room for only two or three paragraphs of his admirable address. He says:

"While men are conducting great transactions all over the world by means of steam and electricity, with a celerity surpassing what seemed possible a few years ago to the imaginations of men, the processes of law for the ascertainment of truth and the administration of justice, have undergone very little improvement indeed. The delays, the uncertainties, the inadequacy of legal procedure, are to-day very much what they were at the beginning of the century."

In theology there is the same absence of substantial progress, perhaps even an actual decadence. Thoughtful men are not apt to differ about the conclusion that the protestant church of to-day has less hold upon the masses than formerly. There is somehow an apprehension abroad that it has arrayed itself upon the side of property, and has lost its interest for the classes to which its founder and its earliest apostles, disciples and martyrs belonged. Somehow the church does not lay hold of the main current of the national life, nor are its essential articles distinguished from its dogmas seriously regarded as necessary guides to the lives of its members. So much of Christianity as can be rendered compatible with getting along in the world is all the church thinks it can now afford to ask, and it's all there seems to be any possibility of its securing."

The italics are mine. Straws show

which way the wind blows.

I long since have learned that the law courts need as much reforming as the churches. They are more often the instruments of injustice than of justice. I speak from many years experience, and daily contact with lawyers and judges in the courts of Pennsylvania. J. C.

The trial for blasphemy against Charles B. Reynolds, the Free-thought lecturer who resides at North Parra, N. Y., will come off before a New Jersey court in May next. He is to be defended by Col. R. G. Ingersoll and we hope there is intelligence and justice enough even in a New Jersey court to clear him. The ancestors of the men who prosecuted Alner Kneeland in Boston fifty years ago for the same offense, now blush with shame for the ignorance and intolerance of their relatives. The same will be true of all other persecutors who invade individual rights in the name of law. J. C.

Not a day passes but we read in the daily papers accounts of murders and other shocking crimes directly growing out of the law-enforced sex-relations of men and women. Generally the husband is the aggressor. He regards himself as the lawful owner of the sexhood of his wife, and when she rebels he thinks he has just cause to kill her. The following account of the Burlingame wife-murder is taken from yesterday's "Times" (Kansas City), and is only one of the many similar cases that might be mentioned. After describing the poor woman's efforts to gain possession of her children, the account adds:

"In the mean time Mrs. Gould had commenced a suit for divorce. Gould began striving to persuade her to withdraw it, wishing a reunion as man and wife. She persistently refused, however, to listen to him and his petitions. Yesterday morning Gould went to the place where his wife was living and made one more plea for a withdrawal of the suit for divorce. Again she refused him, and, drawing a revolver, he fired twice at her, point blank. Both bullets entered the woman's body just below the left shoulder, killing her instantly."

Gould made no attempt to escape, but was arrested and hastily conveyed to Lyndon, the county seat, where he was placed in jail."

[Mr. Speldon's article in several months old, but I judge it will not be less appreciated on that account.—Ed. L.]

## MORAL OBLIQUITY.

Our prevalent and increasing sentiment of centralizing governmentalism has well-nigh obscured every principle of natural right that ever had a lodgment in the minds of American editors and politicians. A somewhat recent illustration of this moral obliquity of vision is found in an editorial in the *Chicago Mail*, edited by Frank Hatton, ex-Postmaster General. Here is the editorial, in full:

"The young mail clerk who was arrested recently for stealing letters in transit set up a bold defense. It is a modern application of the old principle that 'the end justifies the means,' but not quite in accordance with the still older doctrine as enunciated by St. Paul, that evil should not be done even for the purpose of securing good results. When the letter thief was arrested he took the matter coolly and declared that not only was he not a criminal, but that he was stealing in the interest of the postal department and in obedience to the law. This he explained by stating that he stole none but letters addressed to a certain notorious lottery; that lottery letters are not protected by the postal laws, but are positively prohibited; that it is a criminal act to mail them, and that by removing them and appropriating them to his own use he was upholding the law and protecting the sanctity of Uncle Sam's mail pouches."

This ingenious young defender of the purity of the mail service went on to argue that if an agent discovered a bottle containing an explosive or corrosive compound in the mails he is not guilty of a crime in removing and destroying it. The weak points in the defense is that the clerk held no commission authorizing him to guard the purity of the transportation service by this method. It seems also that he was not in the habit of making a report of his operations to the department. These trifling inadequacies may turn the case against him. In other words he will be sized up, not as a public benefactor, but as a thief."

This "young mail clerk" was evidently saturated with the idea that those who violate "law" have no rights, and hence he inferred that he could steal from them with perfect impunity. It seems never to have occurred to him that those who chose to spend their money for lottery tickets were entitled to any protection whatever. They, forsooth, had not asked his consent or the U. S. government. Here we have a fresh instance of the baleful effects flowing from class legislation, from paternal enactments in

the alleged interests of morality. This young man, if not actually made a thief, was given a specious pretext and had an opportunity, to put his dishonest proclivities in practice, by this U. S. statute against lotteries. His employer, the U. S. government, set the example, and he but followed in its footsteps. If he is sent to the penitentiary as a thief, as an accessory, in the robbing of lottery patrons, then every senator and congressman and every other official engaged in the enactment and enforcement of this invasive statute should accompany him as principals.

In commenting upon the clerk's "defense," Frank Hatton ex-Postmaster General, says that the "weak point" in it is that said clerk "held no commission authorizing him to guard the property of the transportation service by this method." The only inference from this is that if the clerk had held such a commission his stealing would have been all right and proper. It is not wrong, says Mr. Frank Hatton, provided you have a commission from the government so to do. No, there is one thing more essential—this government-commissioned mail robber must report his stealings to his principals that there may be the proper "divvy."—"It seems also that he was not in the habit of reporting his operations to the department." "It may be said that Mr. Hatton intended to be understood as writing satirically. Even if this be granted, which is more than the context warrants, it leaves the essential facts the same, that Mr. Hatton's argument is directly parallel with the plea of every paternalist when arguing upon related questions, and that he has not the most remotely touched the real "weak point" of the thieving clerk's defense. This weak point is found in his contention that if he should find in a mail pouch a bottle containing an explosive or corrosive compound he would be justified in removing and destroying it, and that the carrying of letters directed to lottery companies is as much forbidden as is the transportation of these dangerous articles. Concerning this characteristic paternal argument, I remark; First, that independent and outside of all law he has a moral right and is under moral obligations to remove and, if necessary, destroy, whatever is likely to injure the pouches and their contents, or to wound or kill the employes or the parties to whom addressed. Second—Those having charge of any such service have a right and are under obligation to make rules excluding such explosive or corrosive articles from the receptacles in which they place or transport the communications or valuables coming to them as carriers, but they have no right to forbid the transmission of money or the representative of money, to a lottery company any more than to a book firm or a seed house. The would-be purchaser must make his own investments and take his own risks. If he is foolish enough to invest in lottery tickets, all right. That is his own lookout, not mine, nor this young clerk's, nor Mr. Hatton's, nor that of the U. S. government.

But the *Mail* sees nothing of this, its only idea of morality and honesty is that of the man who is afraid of the penalties of the law, but who has no idea of natural morality and justice.

HENRY SPULLEN.

#### Defensism.

Edgeworth—logical, analogical and illogical, philanthropic and cynic, archaic and Hebraic, erudite, recalcitrant and sphinx-riddling Edgeworth—descends somewhat viciously upon my poor "ecologisms." He "can't bear the sound on 'em." All right, comrade. Whatever thy ear dislikes, suffer not thy lips to utter. These new terms are not overly pretty, I admit, but, after all, caphony is mostly a matter of opinion, of association. The opera-goer deems ballad singing a tiresome monotony, and those moved to tears by folk-songs plaintive charm, too often consider the opera a caterwaul. I laugh at a girl's name to-day, but to-morrow I fall in love with the damsel and roll her name as a sweet morsel over my tongue. Why, if you believe me, comrade, the word Anarchy itself used to be one of the most disagreeable to me, and when pronounced with sufficient drawl and emphasis always reminded me of the plaintive song of one of those little burros or Mexican jackasses I sometimes bestride on the Kansas plains.

But I care not to argue questions of euphony and cacophony with a man who prefers the lazy shuffle of "Sociology" to the vigorous step of Defensism, and who has actually adorned one of his most serious, sentimental and poetic works

with the green-grocers title of "Vegetable Portraits of Character"—a super-scription that, by the way, enviously reminds me of a certain well-known seed trade-mark, of which the convolutions of a cabbage simulate the human face. "De gustibus non disputandum." Edgeworth prods a man of straw in his generous defense of the Chicago communists. No one can respect their courage and manliness more than I, and I oppose their methods no more than he. And in stating that their conduct was a "stench" in the dainty nostrils of conservative society, I but stated a self-evident fact; no mistake, no insult. Now to the main question. Why do I give such prominence to defensive terms? Because I find everywhere an intense longing for security. Liberty, equality, etc., are fogs to most men, but security they understand and long for. The objector to Anarchism pops this question first: "How can my person and property be made secure in Anarchy before the advent of the millennium." And the average man will never become an Anarchist till that question is answered to his satisfaction; yet it is precisely that question which the average Anarchist dodges. The average man nowadays pretty well realizes that government robs and injures him, but he firmly believes there is no security for him outside of it. Convince him of his mistake and he is infallibly on our side. The proletaire comes to me and asks: "What sort of a 'critter' is that?" "One who asserts that men can be defensively strong without government—that governments are not necessary for defense." "What will you give us in place of government?" *Defendant*; and in place of the aggressive strength of despots, priests, money kings and ignorant majorities, I would offer you the *Defensocracy* or defensive strength of liberty-loving associations. My proletaire, who is a plain man with big ears, not troubled by "Kacophony," goes away at this, but with a flea skipping around in those same great lungs. The idea that government is nine-tenths tyranny, if not more, and only one-tenth defense, if not less, wears upon him. My new odd words stick and arouse thought. It begins to dawn upon him that defense is perhaps the great self-duty of man, that if his equal liberty is defended, his life, growth and means of growth, are secured. He begins to wonder if he is not an Anarchist. He comes to me again,

"Is your Anarchism opposed to co-operation?" "Certainly not; co-operation is Anarchism in practice; it is practical defense." Not to voluntary, liberty-serving, secession-permitting re-organization." "Is it opposed to institutions?" "Not to elastic, expansive institutions that permit the individual to grow, that serve but do not hamper him." Is it opposed to war? "Certainly, except as a last resort and purely for defense." "Is it opposed to watchmen, detectives, arbitrators, judges, courts of justice?" "Not where these are necessary, serviceable instead of dominative, and all only in defense of equal liberty." "Is it opposed to the punishment of criminals?" "Yes, in the ordinary, revengeful sense of the term, but not to their being compelled to make restitutions for all losses arising from their invasions, nor to the keeping in asylums of intellectual and moral lunatics of dangerous tendency." "Is it opposed to Jews?" "Yes, but not to justice defused in individual cases." He ponders. And then again I begin, "You see, my friend, Anarchism has for its great practical affirmation the defense of the equal liberty of the individual (whether expressed directly or indirectly, negatively or positively, is of no consequence), and our practical works all on this line. We do not to defend against ignorance, we will co-operate to defend against monopolists, rulers, tax-gatherers, landlords, usurers, and all other thieves. All our principles are defensive. Thus our cost principle defends against all profits; our free banking defends against money monopoly, interest; our free-competition defends against trade monopoly, duties; our free-love defends against sexual and affectional monopoly and slavery; our free-thought, free-speech, free-press, free-will, free religion defend against mental and moral monopolies and invasions, and so on. And all our principles taken together in their theory and operation, constitute what I call a Defensocracy—our defensive strength."

Just there, as I paused for breath, my proletaire became agitated. There is a strange light in his eye. He forgets all about me and bolts off gnawing his moustache and muttering "Defensocratic Anarchy! by George, the whole philosophy of Anarchy—balled down in those self-explanatory words—a whole lecture.

And then, as he quickens into a trot and turns the corner, I hear him slap his thigh with his horny hand, and shout "By George! I'm an Anarchist."

J. Wm. LEYD.

Grahamville, Fla., March '87.

#### Warren's Will.

Mr. Warren, of Wichita Falls, Texas, seems to be nothing if not a hair splitter. When Liberty is in peril of her life, when a man and woman are in prison for ignoring law and gospel, he fills columns after columns with attacks and insinuations because this man and woman chose to use a word which he does not like. Because the rescuers do not plunge into the waters to save drowning people in the precise manner that he says he would, he will have it that they are really doing nothing to rescue the perishing. "Salvation," he everlastingly reiterates, is a gospel term; he is not a gospel man, and, therefore, he wants no "salvation" in his—Salvation can never have a good meaning. Well, this is fully as rational as his attitude upon the word "marriage." It happens, although Mr. A. Warren may not be aware of the fact, the word marriage has both a good and a bad meaning, as it is used by the subjects of Church, State, and Society. Is there any valid reason why he should not use it in its good sense? What power has given this trinity of vampires the monopoly of this or any other word? The Christian says that Infidelity is bad. The Infidel says that it is good. Which is right? That will depend upon what Infidelity is. A name is only a label. Sometimes a "Nonesuch" gets on to a "Little Red Romanist" tree; does that make the latter a "Nonesuch"? Because the Statocrat calls a loveless union "marriage," that does not make it a marriage; because he calls a love union outside of legal forms not a marriage, does that prove that it is not marriage? He also calls a love union marriage when inside the legal pale, but his calling it that does not make it one whit more so than it was before. The love union is marriage, the loveless union is not marriage, and that independently of the legality or the non-legality. But the sense of legal obligation hinders and deprives, and the less of it the better. As I understand, your daughter and son-in-law disclaim all thought that the fact that their union is at common law a marriage, anything is thereby added to its tenderness and truth. They surely affirm that free mutual consent is marriage and the State is thereby debarred, by its own previous admission, from persecuting them in any way. And, squirm as they may, the hair-splitters in the Anarchist camp cannot escape from the consequences of their broader brothers' affirmation that a man and woman have the natural right to form a love association and also the right to call that association a "marriage" or a "union" or a "partnership," and, Mr. Warren to the contrary notwithstanding, they have an undoubted right to publish that union to the world. Names are trifles weighed in the scale against essential verities and individual rights. And more than this, Mr. A. Warren, and Mr. B. R. Tucker and Mr. Victor O. Yarros and Mr. Michael Hickey, of Ireland, and a few more very enthusiastic gentlemen, need to be informed that when a man and woman are persecuted by the invasive State for doing these things which they have an undoubted right to do it becomes the equally undoubted duty of every friend of liberty to aid them in every way possible.

Mr. Warren's assertion that "the law cannot punish a woman for having a baby," is absurd. In this country, the law can do anything; it is merely a question of brute force. Constitutional and natural guarantees are ruthlessly trampled under foot. Already, in Utah, women have been placed upon the witness stand and asked to tell who were the fathers of their unborn children, and, upon their refusal to "criminate" their partners in the procreative act they have been jailed for contempt. Is not that "punishing women for having babies?" Mr. A. Warren has usually been credited among reformers with the possession of humanity and practical sense, but assuredly this proposition of his that the way to Liberty in sex relations is through an unknown fatherhood, gives evidence of neither. His scheme is inhuman, it is impracticable, utterly so. It is readily granted that among people of means and in cosmopolitan cities such love and parental relations as he proposes are possible, but for that matter, that is nothing new, and still liberty has not yet been won for woman nor for love. A woman having means could support herself, of course, without trouble, during her months of trial and suffering, but how about the vast majority of women in the

cities and manufacturing towns who are dependent upon their daily labor for their daily bread? I hold that the free, frank and cordial co-operation of the parents is essential to healthful gestation and to the subsequent training of the child, as well as to the economical application of the earnings of each.

But the one insuperable obstacle in the way of the realization of Mr. Warren's dream is yet to be mentioned. Had there been in or about his article nothing otherwise indicating the sex of the writer, this proposition would be sufficient to prove that the brain of a man had originated and the hand of a man, penned it, and that man one singularly unacquainted with the nature of woman, whatever his "experiences" might have been. In the painful, dragging, months of gestation, and during the awful hours of parturition, the heart of a loved and loving woman calls as at no other time for the presence, the watchful care, the tender ministrations, of her lover, of the father of her child. Nothing can compensate her for the loss occasioned by his absence. And Warren offers the especially sensitive soul of the free woman nothing. He had nothing to offer. The nature of his scheme rendered it impossible that he should have. In all villages and towns and small cities and among a vast agricultural population, the mother must bear her burden unhelped and endure her pain uncheered by the sympathy of her lover, and be deprived of the supreme happiness of sharing her mother's joy with the man she loves and who was her co-partner in the act that gave the new life to the world and laid this pledge of affection in their arms. And if sickness comes to the little one, she must bend alone above its couch of pain and list to its pleading cries. And all this must be, because Mr. A. Warren has a notion that if you say that you love a woman you thereby admit that the State has a right to spy into your private affairs and assume the control of your own love relations!

In vain is Mr. Warren's hair-splitting. A bad law is not to be nullified by a clandestine violation of it,—certainly no parties may thus secure happiness for themselves, but they have set no example and the evil principle remains and the evil law remains to torment bolder reformers, or those whose circumstances do not permit them to be successfully clandestine. All such theorizing as that of Warren is needless. It is only a waste of breath, a misdirection of energy. Open disregard of unjust and invasive statutes, active propaganda by voice and pen and book, can enlighten the minds of the people, humanize their emotional natures and make this world a decent abiding place for free men and women.

Warren's idea that parents are under no obligations to their children, is the outcome of the old theological doctrine that men owed all duties to "God," and that "God" was under no obligations to men. But the enlightened moral sense of the Free-thinker tells him that if there exists a god who is the creator of human children, he is under all possible obligations to them. And so it is in the sphere of human parenthood. Love indeed is the motive that enforces the obligation, but the obligation is coexistent with the love, it not primary, where both exist, and certainly self-existent when the love is absent.

Perhaps Mr. Warren will call these criticisms "partisan personalities." They may be personal but they are certainly true. And they were needed. Let Mr. Warren understand that freedom is more than a resolution—"he is not free who is free alone."

Yours,  
JOHN SMITH.

The hand-writing on the wall seems to say unmistakably that R. G. Ingersoll will stand squarely for the new platform of the Union Labor Party of America.

The Non-Conformist says that Samuel Crocker is stirring up western Kansas on the Oklahoma and monopolistic questions, and will speak anywhere in the United States during April, for the Union Labor Party for his actual expenses. Address Nonconformist, Winfield, Kansas.

J. C.

Dr. H. A. Allbut is in trouble in Leeds, England. He is threatened with expulsion by the Edinburgh Royal College of Physicians for his advocacy of neo-Malthusianism. Doctors of medicine, like doctors of divinity, allow no one, if they can help it, to investigate outside their stereotyped grooves.

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#### ERRATA.

On first page of this issue, 14th line from top of the 4th column, read *prospectively* instead of "respectively."

#### MEDDLERS CONDEMNED.

One of the most thoroughly wide-awake of our exchanges is the "Press," (Winsted, Conn.) Lucien V. Pinney, its editor, has made an enviable reputation for himself as a bold, able and independent writer. In a late issue of his paper he closes an editorial on "The Kansas Anarchists" with this emphatic language:

Is there neither law nor honesty enough in this country to rescue these innocent victims from persecution? They have injured nobody. Though guilty of an offense against St. Custom, they have done nothing which justifies imprisonment for an hour, or any interference whatever with their affairs. Mr. Harman stands ready to pay costs and liberate his daughter from prison, but her keen sense of the outrage perpetrated upon her by the state, will not allow her to consent to this, and, respecting her wishes in all things, the father is thus made a reluctant witness of his child's sufferings, though at the same time he glories in her devotion to principle.

The case is one which merits the severest condemnation of the state and of the middle-class persons who have been instrumental in procuring the prosecution. The superior court delays its decision and the question is open whether or not a person who will not or cannot pay costs of court in his own case may be kept in solitary confinement for life. We hope to see the day when pious people will cease to meddle with the affairs of their neighbors which do not concern them and which in no way interferes with their marital customs or civil rights, and we wish the victims of Kansas righteousness a speedy and triumphant deliverance from the venal clutches of the backwoods community in which it is their misfortune to reside.

#### What the People Say.

The Hon. Warren Chase writes: "I received the copy of 'Irene' you sent me, and read it through. The first novel I have read for at least ten years; and I should never have read this but for two reasons; first, the author, and the second and more important one, of its being permeated and indoctrinated with the social state of society in and out of married life and the rational and natural remedies for our social and domestic evil. For forty years I have advocated and pleaded for the perfect equality of sexes in and out of marriage. The leading principles of the book render it of great value, and I wish every family that could have a copy \* \* \* \* \* I hope for it a large sale for the grand principles it so ably inculcates."

Seward Mitchell writes: "It is about forty years since my spirit friends, as I believe, led me out of a Christian church, and during that many years I have read a great many books and papers; but few poor men have read as many, and I can truthfully say, that 'Irene' or 'The Road To Freedom,' is the grandest of them all. Hardly a page did I read but I cried out, 'I want to put this book into the hands of millions. The principles it advocates saving or redeeming the world by love instead of brute force, are the only principles that lie at the foundation of the world. \* \* \* \* \* I never was so enchanted with a book in my life. Irene, O thou Divinely Inspired Irene, you hold the lover that must yet move the world!'"

#### SAVINGS OF THE ENEMY.

A Kentucky contemporary errs in crediting that unsavory publication, *Lucien*, to the state of Iowa. Kansas is responsible for *Lucien*, a state which with all its improved opportunities has produced more cranks and theorists than any commonwealth in the union. But even Kansas couldn't stand *Lucien*.—Kansas City Times.

The unsavory Harman-Walker outfit are still confined in the holdover, where they are likely to stay until they square accounts with Jefferson county. The marly business is fast playing out and it is possible the parties may conclude to "nute up" and get out.—S. O. Crookbeck in Oklahoma Register.

By last week's New Era, which finds its way to this office occasionally, I see that in the graphic language of Van Meter, *Lucien* is to be "squashed." It is a great wonder to me that the good people of Valley Falls have not risen en masse long ere this, and burned the outrageous concern to the ground. The publication of this paper and the Walker-Harman trouble generally, are disgraceful blot upon the fair pages of our county history. Out with the freelovers, wherever they are.—Martha Meadows in Valley Falls Register, March 11.

The *Lucien*, a vile paper published at Valley Falls, is in trouble. It is an outrage on the state of Kansas that such a paper is printed within its boundaries.—Topoka Journal.

Meantime the "autonomistically" married couple have been in jail longer than the term for which they were sentenced, but ultimately refused to pay the costs assessed to them and defy the Supreme Court or any other court. In this they are encouraged by letters from cranks all over the country and are playing the old Mormon dodge of martyrdom for practicing their religious beliefs. The Kansas courts expect to be able to nullify the "autonomistic" marriage business while congress is throting Missouri, and if the courts continue obdurate as they will spend the rest of their natural lives behind the bars.—Daily Commonwealth, Topeka, Kan., March 13.

LETTERS FROM FRIENDS.

Bro. Harman: Yours of the 17th inst received this morning and I haste to reply. Enclosed find two dollars, which goes as free as the water flows down the great Mississippi.

Lucifer has been tardy for the last year not making its appearance only about once a month. Would be glad to see Lucifer every week if possible, and will expect it unless your troubles prevent you from the publication of same.

Gilead, Ills, February 21, '87.

[We are utterly at a loss to account for the non-appearance of Lucifer at the home of our friend.—Ed.]

Dear Lucifer: It is of no use to expect justice or mercy from the state. The state is an infernal juggernaut designed by a small, but cunning and diabolical class to corrupt and rob the masses, and to crush whoever may rebel against it.

I am glad to hear the prisoners are well and in good spirits. The same good news I hear from our imprisoned comrades at Chicago. These men and women, whatever be their fate, are inspired by the true spirit of heroism for the cause of humanity's progress.

Mr. Harman: When I first heard of the arrest of Lillian Harman I wrote you to stop my paper when the time paid for expired. Since that I have changed my mind and will try to renew when the time is up, and will also try to help the defense fund soon.

Like W. H. T. Wakelield, I write a page of curses for the persecutors of Lillian and Mr. Walker, then tear it up. I am generally profane, but in this case I cannot do the subject justice. I cannot write anything that will help the matter any, or that will comfort the prisoners; but if you will please give me the name of the worst or the leader of the persecution I will write to him and pour out my very soul to him; then I can get some satisfaction.

I would like to tell Francis Barry that Zeno is about five feet tall and weighs less than 160 pounds. He has a brother, however, that would fill his description. Mr. Barry's letter is quite logical, just the same.

Editor Lucifer: I have been silent about writing you my intense indignation at the persecutions and prosecutions going on against the Lucifer band, thinking wiser and more experienced friends should have precedence.

My construction of those provisions is that a ceremonial marriage must be celebrated in conformity therewith, and that any persons living together as man and wife without being married according to these directions, are liable to the penalty thereof. I do not say, nor do I intend to intimate that a "consensual marriage" is not valid, but the legislature has the right to require parties assuming the marriage relation, to have the marriage entered into publicly, and a record made of the same.

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And now comes the arrest of the remaining editors of Lucifer! For it "must be suppressed, by hook or crook or crooked means. Do they think to stop the avalanche of Free thought surging over the whole world or even silence readers of Lucifer? Never can it be done, any more than the killing of anti-slavery advocates quelled the rebellion.

Free speech, Free thought and Free love (as defined by Lucifer) have all come to stay, and get acquainted with this earth's inhabitants. Let's select the good from the evil, and allow all to think for himself.

With sincere regards to that noble sister Lillian and true, staunch Edwin, and with hopes that the Lucifer band will all be liberated soon, I am yours in favor of liberty of honest expression of now, radical thoughts, and

Dear Mr. Harman: When I first heard of the arrest of Walker and Lillian, I thought it was a farce, and would end as such before it reached the District court. But since the culmination of the prosecution in the shameful trial before that old fossil Judge Crozier, and the infernal and relentless imprisonment of two peaceable citizens of Kansas the farce has changed to a serious matter.

I believe in Anarchy; in the absolute enfranchisement of woman in all her relations; in human rights first, and law, which is about synonymous with Madam Grundy's opinion, afterwards.

The darkest, and most damnable blot on the history of Kansas, is the barbarous and

uncivilized treatment of Walker and Lillian. The opinions of all the Supreme courts in this land of boasted freedom (only in name) could not make me believe the "prisoners" have committed a crime that deserves imprisonment on any single moment.

I admire the "plack" of the prisoners and—because of her youth—Lillian especially. Brave Woman! she is vixning a fame as eternal as human history.

I have undertaken to write you on several former occasions, but each time have lost my patience. Bitter, hateful, vindictive thoughts were crowding up for utterance, over which restraint seemed wisest. But the burning injustice to the prisoners, in the name of law, will ere long meet its deserved fate, and then the retribution will be as swift as it is terrific and irresistible.

Oh Crozier! Oh citizens of Valley Falls! Oh great state of Kansas! How can you live an hour, or restrain your voices when in your commonwealth, locked behind prison doors, week after week, and month after month, there remains one innocent guiltless, sinless woman, pure as childhood, or the untouch'd petals of a rose-bud! I cannot send any pecuniary aid now, but I hope to ere long.

Yours for justice against the world, J. K. P. McCALLUM, Huron, Dak.

SUPREME COURT DECISION.

SYLLABUS: 1. The mutual present assent to immediate marriage by persons capable of assuming that relation, is sufficient to constitute marriage at common law; and such a marriage will be sustained in this state where its validity is directly drawn in question.

2. The legislature has full power, not to prohibit, but to prescribe reasonable regulations relating to marriage, and a provision prescribing penalties against those who solemnize or contract marriage contrary to statutory command is within legislative authority.

3. Punishment may be inflicted upon those who enter the marriage relation in disregard of the prescribed statutory requirements without rendering the marriage itself void.

4. Under section 12 of the marriage act, all persons who enter the marriage relation, and live together as man and wife without complying with the conditions and regulations of the act, are guilty of a misdemeanor and subject to the punishment imposed by that section. All the justices concurring. Attest: C. J. BROWN, Clerk Supreme Court.

HORTON'S OPINION.

Chief Justice Horton filed a concurring opinion, which is as follows: "Upon the record as presented to us, the question is in my opinion, for consideration, is not whether Edwin Walker and Lillian Harman are married, but whether in marrying, or rather in living together as man and wife, they have observed the statutory requirement.

The language of the statute is, "The marriage relation shall only be entered into, maintained or abrogated as provided by law. "Any persons living together as man and wife within the state without being married, shall be deemed guilty of a misdemeanor." Sec. 12, chap. 61, Comp. laws, 1870.

My construction of those provisions is that a ceremonial marriage must be celebrated in conformity therewith, and that any persons living together as man and wife without being married according to these directions, are liable to the penalty thereof. I do not say, nor do I intend to intimate that a "consensual marriage" is not valid, but the legislature has the right to require parties assuming the marriage relation, to have the marriage entered into publicly, and a record made of the same. This I think the purpose of statutory regulations. Whatever commands the state may give respecting a formal marriage, the courts usually hold a marriage at common law to be good, notwithstanding the statute, unless, it contains express words of nullity; yet persons marrying without conforming to the statutory requirements may be punished, although the marriage be valid.

The consequences of marriage as to conjugal rights, and the rights of heirs, are so momentous that the interests of society may properly require a witness to the marriage and a record of its acknowledgment; this much is required in the acknowledgment and registration of an ordinary conveyance of real estate. If there be no registration, no officiant, and no eye witness of the marriage, the woman is placed at the mercy of the man who may deny the "consensual relation," and repudiate her; and on the other hand, a man may be blackmailed by an adventuress, who may declare there was a "consensual marriage," where there was none; therefore, the statute requiring the registration and acknowledgment of marriage, is for the benefit of the parties; as well as their heirs. No man who desires in good faith, to make a woman his wife, will object to obtaining a marriage license, and going before some person authorized to perform the marriage ceremony and acknowledge the marriage. The fee for a marriage license and its return, is \$2. The acknowledgment of the marriage relation may be made for a trifling sum, unless the parties voluntarily donate a liberal sum.

As a rule, I do not think that any woman, who has reached the age of discretion, and has a full appreciation of the marriage relation, will demur, when it is proposed to clothe her matrimonial association with the forms of law. If the

man objects to bare his marriage public and a record of it made, he tacitly admits that he intends to cheat her whom he has privately promised to make his wife. It is only just that the acknowledgment and registration of the marriage relation should not be left to the whim and caprice of the parties, because no transaction in the life of a man or a woman, is more important, or fraught with more significant consequences than marriage, and society is supremely interested in having a marriage entered into publicly, and have a record thereof.

But counsel claims that Edwin Walker and Lillian Harman should not be imprisoned on account of their non-observance of the statutory provisions regarding marriage, upon the ground that the statute is an interference with their conscience, and therefore unconstitutional. Sec. 7, bill of rights.

The assertion that the acknowledgment and registration of a marriage conflicts with any right of conscience, is wholly without foundation. The provisions of the act relating to marriage, no more infringe the State Constitution than does the law regulating the acknowledgment and registration of real estate conveyances, chattel mortgages, &c.; in fact, but little more ceremony is required for the one than the other.

The statute does not demand that the marriage ceremony shall be regarded as a religious sacrament; no recognition of the Pope or the church of Rome, or any minister, priest, church, religion, or superstition is required; no intervention of a person in Holy Orders is required. The marriage does not have to be celebrated in any church, chapel, or other religious or public edifice. A probate judge or a justice of the peace may solemnize the marriage, and this may be done at the house of the parties, in the office of the official, or any other place the parties may select. The ceremony, if the parties so desire, may consist in the simple presentation to the official of the marriage license, and a request that cognizance of the mutual engagement of the parties to assume the marriage relation; no special form or solemnization is prescribed or demanded.

Instead of permitting the man, as in old times, to go to the house where his betrothed resides, and lead her away to his own house and call her his wife, and live with her as his wife, the statute requires the man and wife, if they are to live together in the marriage relation, to obtain a license at the office of the probate judge and have their nuptial engagement acknowledged before some authorized person; the license after the marriage, is to be returned to the office of the probate judge and the registration thereof becomes public.

If the parties in this case prefer to enter into the marriage relation without any religious or other elaborate ceremony, they could have done so within the terms of the statute, by obtaining a license and going quietly before some justice of the peace and had their marriage relation there witnessed and acknowledged; they might have had as much ceremony, or as little as they chose.

I cannot understand how the provisions of the statute can be truthfully denounced a "monstrosity," or in that way "sacred liberty," or "the personal rights of the parties are infringed."

If Lillian Harman desires to retain her own name, I can perceive no objection to her doing so.

There is nothing in the statute justifying a man in being guilty of cruelty, or other inhuman or brutal conduct towards his wife, and the wife does not merge her individually as a legal person, in that of her husband. The constitution and the statutes of Kansas, are very liberal in recognizing the rights and privileges of woman. Under our law, marriage involves neither the assumption of indolence, nor the acquisition of property; a married woman may contract, and be contracted with concerning her separate real and personal property; sell, convey and encumber the same, and be sued with reference thereto, in the same manner, and to the same extent, and with like effect, and as freely as any other person, in regard to his or her real or personal property from her husband, perform labor and services on her sole and separate account, and make the earnings therefrom her sole and separate property; she has the same control of her person and property as her husband; she has the same right as to the nurture, education and control of her children, and, also, the same rights in the possession of the homestead.—Kuang vs. Mastin, 9 Kas. 532. Tallman vs. Jones, 13 Kas. 538. Going vs. Orms, 8 Kas. 83. Larimer vs. Kelley, 10 Kas. 293. Butler vs. Butler, 21 Kas. 526.

She may participate in all city elections, attend caucuses, nominate candidates, and, under the late law, vote for such persons or principles as her judgment dictates. In fact, in Kansas, a woman, in nearly all matters, is accorded civil equality with man; she is not his servant or his slave. In this State, the sexes may harmonize in opinion, and co-operate together; here, the burden of a common prejudice, and a common ignorance against woman, has been wholly removed, the tyranny which degrades and crushes, no longer exists; the coveted rewards of life, forever forbidden them in some of the states, are here within their reach; here a fair field for their genius and industry is open, and womanhood, with the approbation of all, may assert its divinely chartered rights, and fulfill its noblest duties.

If Edwin Walker and Lillian Harman are suffering imprisonment, it is because they have willfully and obstinately refused to conform to the simple and inexpensive regulations of the statute directing marriage. In this non-observance of these regulations, they have exhibited neither good sense nor sound reason.

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