

CONCERNING THE LAW OF LIBEL.

Lawyer Holl's Argument in the Gilman-Dee Case.

What Constitutes Privileged Publications—Authorities Cited and Some Witnesses Scored.

The opening argument in the Gilman-Dee libel case was made before Judge Catlin yesterday morning by S. S. Holl for the prosecution. The testimony, he said, had been somewhat scattered and confused, therefore it was eminently proper for the court to request counsel to sum it up in proper shape for presentation. There is nothing more sacred than the character of a citizen, and the law protects it from calumny. "A good name is more to be desired than riches." The man who does not estimate his good name above every other consideration in life must have fallen low indeed.

It is eminently just and proper that the law which protects a citizen's character should be enforced when that character has been unjustly assailed. There would have been not only no justification for the article complained of, even if it had referred to proceedings in court, and much less was there justification therefor under the existing circumstances.

Counsel quoted from the Civil Code to show that everybody is entitled to protection against defamation or injury to his character. The code's definition of libel, slander, etc., were read, also the code of privileged communications. (Quotations were also made from the Code of Civil Procedure on the subject of defamation of character or libel.)

He then read the allegations of the complaint, embracing the article complained of, also the answer made to the complaint, alleging that the publication was true, and that on the 26th day of August Mrs. Estelle Truitt had sworn to a complaint charging C. H. Gilman with the crime of rape.

Judge Holl declared that the article was grossly libelous, as would be shown by authorities that would be presented. The defendant's claim that the article was true, but that they have gone to an unnecessary extent in the matter. The story of the woman as published in the article was a criminal assault, but they went beyond her statements and made allegations that were unwarranted.

A case in the 10th California Reports was referred to by counsel, in which the defendant in an action for slander claimed that the article was true. The court required the defendant to produce evidence sufficient to convict the plaintiff in an action on a charge of the character of the one complained of, which ruling was upheld.

Counsel said that under this ruling the court, sitting as a jury, must, in order to acquit the defendant, find that they had presented evidence sufficient to convict the plaintiff, if on trial on a charge of assault with intent to commit rape.

The statement made in the defendant's answer that the article was true, was published as a matter of news, places, Judge Holl said, a very low estimate on the morals of this community. It was vile, gross and libelous, and no decent man would place in the hands of his children. It is because of the publication of such articles that the law is not permitted to protect the homes of many families in this city.

The liberty of the press has been said to be one of the main pillars of humanity; and the liberty of the press includes the idea that the newspaper may assume private character? It is conducive to the public good that journalism shall be allowed to publish the facts of the day, and to discuss them as they see fit. It is not the duty of the press to invade the privacy of individuals, and to publish their private lives.

Resuming his argument at the afternoon session, Judge Holl quoted again from the defendant's answer to the complaint, in which they hold that if the plaintiff had suffered any damage or loss it was not because of the publication of the article, but because of the charges against persons on information obtained from policemen or others outside a court, even under the belief that they are true, and that the charges were being prosecuted criminally or for damages. The decision quoted was long and explicit on these points.

Many other authorities in the same line were quoted by counsel, some of the cases referred to being of very much the same character as the one at bar. Judge Holl then gave further authorities on the point claimed—that the defendants, in order to justify their acts, must present evidence that would be sufficient to convict the plaintiff in a case in which the charges made against him. It was 3 o'clock when he completed his citations of authorities.

Counsel then proceeded to review the testimony taken in the case in order to show that there was nothing to justify the publication complained of. The defense is that on the 11th of August, 1892, the plaintiff was indicted for the crime of Mrs. Truitt in an indecent manner; that he then and there made an assault upon her; that in the struggle he accused the woman's law was broken; that the plaintiff procured a physician to replace the dislocated jaw, and shortly afterward did criminally assault her. Also that some days afterward he repeated some of the alleged acts of indecency.

Judge Holl then paid his respects to Lulu Estelle Truitt, who he said has no local habitation and no name. She had lived in many parts of the coast, finally coming to this city. She had told some persons that she was married and others that she was single woman. To some she said she had a little sister to support, and to others a child of her own.

CLUB CALIFORNIA. It Will Give Its Second Party the Season of Last Night.

The Club California will give the second party of the season's series at Turner Hall to-night. The membership of the club is limited and the parties are well-known affairs, the members being all well-known society people. As nothing is spared to make the parties agreeable, a most delightful time is looked forward to by the members.

Meteorological Notes. The Weather Bureau reports show the highest and lowest temperatures yesterday to have been 54° and 37°, with gentle to fresh variable winds and cloudy weather prevailing the greater portion of the day.

The barometrical readings at 5 A. M. and 5 P. M. were 30.07 and 29.59 inches, respectively. The highest and lowest temperatures one year ago yesterday were 46° and 36°, with a trace of rain, and one year ago to-day were 47° and 37°, with a trace of rain.

Out of a record of sixteen years, the 22d day of February was clear and rainless on twelve of them, giving favorable chances of a successful day for the Government building being a good one.

Brown's Bronchial Trochies will relieve bronchitis, asthma and throat diseases. We fully agree with a writer that car-

FARM AND ORCHARD.

Small Fruit Farming—Strawberries, Raspberries and Blackberries.

Canker in Fowls—A Remedy Which Has Proven a Success—Black Currants—Farm Notes.

To make a specialty of small fruits is to use less land, give the best of cultivation, and apply manure and fertilizers liberally. Instances have been known where as much as \$1,000 per acre have been secured from one acre of strawberries, but such success is an exception. In this section the experienced growers do not wait until the season opens, but begin work as soon as the condition of the ground permits. If the manure is to be used, nothing that is coarse is placed on the ground, only the finest and most perfectly rotten material being used. If fertilizers are resorted to they are used before the young plants begin to shoot out, and, if possible, the rows are cultivated, the object being to have the plant food within reach of the young plants at a time when they need it most.

In order to give the young plants a start the land is made rich, and they are transplanted as early as possible, so as to give them the advantages of the spring rains. A dry spell not only interferes with their growth, but cuts the crop from the old bed made in the previous year of the strawberry is the weeds. It is easy enough to keep them down between the rows, and if the bed is matted in a wide row hand-outing must be resorted to, but if the young plants are well worked the first year, and the space between each plant kept clean, the weeds can be kept down on the land about the highway for eight days without attracting notice? According to Barry's statement to Mrs. Gilman, the woman dropped some things in the hall on the morning of Mrs. Gilman's return, and then showed him some buttons.

The testimony and character of Pat Barry were severely commented on by counsel, who referred to Barry's conviction for perjury committed in the Kalocho-De Young case in San Francisco. He said that he had made conflicting statements about the case.

Judge Holl will conclude his argument this forenoon, Messrs. Gilman and Johnson will argue for the defense, and Grove L. Johnson will close for the prosecution.

MASQUERADE AFTERMATH. Some Errors in the Report Corrected—The Awards.

In the Brown-Upton's account of the Athletic Club masquerade types made us say there were 42 masks; it should have read 12.

The orchestra which furnished the music for the affair was not that of C. A. Neale, who played in it, but of Jones, Fisch & Watson, and it was excellent in every number and level with the entire entertainment.

The lady who was spoken of as representing the "Statue of Liberty," and was so accepted by most people present, really represented the "Statue of the Republic," and the best of the "Statue of Liberty" in the World's Fair at Chicago. This account for her holding in one hand with arms up-lifted a globe surmounted by an eagle, which is not a very common sight.

It is generally true to say that the failure of the Board of Judges to recognize the personation referred to, and also the statutory "A Third Boxer," is unaccountable. But the Board of Judges, if none were provided that could be awarded both the pieces of statutory deserved special and honorable mention.

FOR THREE YEARS. The Young Rogues Applekin and Rossi Will Go to Jail.

Yesterday in the Police Court Kestie Applekin and Josie Rossi were ordered to stand up for sentence for vagrancy, and the court stated that the law gave him the discretion of sending them to jail or the Whittier School for a term of years. He did not think that a term in the County Jail would do them any good.

"A. W. there won't be no term of years do me no good, neither," broke in the Applekin boy.

"No, I don't think it will; I think you are incorrigible," said the Justice. "I don't want to hear any more of your impudent speeches, or I shall send you down stairs and have you punished. I will sentence you to three years each at the Whittier School. Officer, take these boys down stairs immediately, and put them in separate cells."

COLORED BAPTISTS. They Form a New Church Organization in This City.

The colored Baptists of the city have united in a church to be known as Zion Baptist Church of Sacramento. A council was called to recognize them as a regular church. The delegates appointed by the three churches of the city met to investigate their faith and practice and decided to recognize them as a regular Baptist Church.

Public recognition services were held in the basement of Pioneer Hall January 30th, the sermon being preached by Rev. H. A. Church of the Emanuel Church. The hand of church fellowship was extended by Rev. A. C. Herrick of the Ninth-street Baptist, and the charge was given by Rev. J. H. Reider of the Calvary Baptist Church.

The new church will worship in the lower hall of the Pioneers.

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On motion of Palmer's attorneys a continuance was granted until this morning (Wednesday) at 10 o'clock, on the grounds that the witnesses for the defense were unable to appear at the trial.

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rots and cabbage are two items that should have a large place on any list of feeding stuffs. The first are excellent for colts, horses, milch cows and all young stock. The second are valuable for poultry, and as a nutritious woman, one has yet to find any that will not eat them greedily.

Common stock can be vastly improved by good feed and care. But the same old story is told over and over again, and it is a pity that so many are not pleased more quickly, more surely and with a better final outcome by the introduction of new and better blood. The best result comes from a combination of all these results.

When the value of peas as a fodder crop becomes better known we shall see it made a great addition to our present list of cattle foods. Owing to their high percentage of protein they serve well to feed in connection with corn. Either to use as green fodder or as cured hay they are a crop worth growing.

Grass culture lies right at the foundation of successful stock farming. Some men do not seem to understand that there is just as much need of care and thoroughness in growing grass as there is in growing other crops. If they will pay more attention to this matter they will surely succeed with their stock.

In careful corn-growing experiments two facts seem to have been made clear. One is that the largest total product will come from planting the largest variety of corn with the most fertile soil. The other is that the thickest planting which is consistent with a well-developed ear to each stalk will give the largest total yield.

If the work can be done during the winter clear out the current, strawberry, raspberry and blackberry rows of the rubbish and burn it. If much has been used, however, it is not safe to remove it until the approach of spring. Many insects are destroyed by consigning rubbish to the flames while the weather is cold.

Did you ever figure how much more it costs to keep a stable or pen clean than to do it so it is so filthy as to make the animal uncomfortable and liable to disease all winter? Then clean the quarters out in the spring? If you have not our advice is to do the cleaning out every day until you have "worked out the sun."

A man should not condemn a thing until he has at least given it a trial. We have observed that those who sneer at intensive cultivation, extra heavy manuring, and other things who have not attempted to practice them. A trial of these methods is very apt to give one some respect for them. Suppose you make a trial of intensive cultivation in this direction next season.

An orchard in Howell County, Mo., has 200,000 trees, and is said to be the largest in the West. Great care is taken of the trees, and the fruit is of the highest quality. Thirty men are engaged in looking after the welfare of the trees. Although the orchard is only ten years old, it has already produced a large crop of fruit. The trees are planted in rows, and are well cared for.

The pigs should be taught to eat as early as possible, and to eat in a regular way. They should be fed on a diet of corn and clover, and should be kept in a clean, dry place. They should be fed on a regular basis, and should be kept in a clean, dry place.

Instead of taking eggs to the nearest grocery store, it is better to sell them at your own door. This will save you the trouble of carrying them, and will also save you the expense of a middleman. You will have no difficulty in securing more than the regular price if you can satisfy the customer.

For Weak Nerves. USE HORSFORD'S ACID PHOSPHATE. It is particularly useful in making weak nerves strong. As it contains necessary elements of nutrition for the nervous system, obtained from natural sources.

Notaries Public. Governor Markham has appointed and commissioned the following Notaries Public: Robert T. Devin, at Sacramento; William A. Hanlon, at Yuba City; Siskiyew County; F. G. Nagle, at Santa Rosa.

Attention called of clothing, furnishing goods, hats, etc., every day at 12 and 1 P. M. Goods sold at private sale at auction prices from 9 A. M. to 12 M. Chas. Robin, 612 and 614 K Street.

A Ruddy Glow on cheek and brow is evidence that the body is getting proper nourishment. When this glow of health is absent assimilation is wrong, and health is letting down.

Scott's Emulsion taken immediately arrests waste, regardless of the cause. Consumption must yield to treatment that stops waste and builds flesh anew. Almost as palatable as milk.

CLEVELAND SICK OF THE HAWAIIAN CONTROVERSY: He does not feel so completely demoralized as the fruit-grower who finds when he is to be sold that the fruit he has raised is not the variety he thought he had purchased. It makes great difference with the length of time that the fruit is on the tree, and the quality of the fruit is not the same.

TO MY PATRONS AND THE PUBLIC. NOW IS THE TIME TO PLANT YOUR Fruit. Hyacinths, Tulips, Lilies, Lily of the Valley, etc., are now in season. They are the best of their kind, and are sold at a low price.

NOTICE OF DISSOLUTION OF COPARTNERSHIP. Notice is hereby given that the undersigned have this day formed a partnership, under the firm name and style of JONES & DAVIS, for the purpose of conducting a firm in the city of Sacramento.

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TO-DAY!

A large lot of Men's Black Stuff Fur Hats, in a variety of shapes, reduced from \$2 50, \$3 and \$3 80 to \$1 85. Boys' Black Hats, 25c.

Are you aware that we are offering unusual bargains in CLOTHING? E. S. ELKUS, 922 and 924 J Street.

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H. K. WALLACE, STOVES and RANGES

OF ALL DESCRIPTIONS. Headquarters for Galvanized Iron and Corinne Work. 511, 513 and 515 J STREET.

SACRAMENTO LUMBER COMPANY, Dealers in Lumber, Doors, Windows and Blinds. MAIN OFFICE—Second street, L and M. YARD—Front and 8th streets, Sacramento.

Banking Houses. NATIONAL BANK OF D. O. MILLS & CO. Sacramento, Cal.—Founded 1850. DIRECTORS: D. O. MILLS, EDGAR MILLS, S. PRENTISS SMITH, FRANK MILLER, President, CHARLES F. DILLMAN, Cashier.

Waterhouse & Lester. DEALERS IN IRON, STEEL, CUMBERLAND Coal, Wagon Lumber and Carriage Hardware. 709, 711, 713, 715 J Street, Sacramento.

Union Foundry and Brass. Founders and Machinists. Front street, between N and O. Castings and Machinery of every description made to order.

SACRAMENTO FOUNDRY. FRONT STREET, CORNER OF N. WILLIAM GUTENBERGER, Proprietor. Work for steamships and buildings a specialty. Gasoline and Steam Engines to order on short notice.

SUCCESSOR TO CARLE & CROLY, Contractor and Builder. Orders solicited and promptness guaranteed. Office and shop 1124 Second street, between K and L.

WHERE TO BUY GROCERIES. J. J. WINGARD, at TWENTY-FIFTH and O Streets, has the best assortment and at most reasonable rates.

Attorneys-at-Law. A. L. HART, ATTORNEY-AT-LAW—OFFICE, SOUTH-EAST CORNER FIFTH and J STREETS, ROOMS 12, 13 and 14. SUTTER BUILDING.

M. C. LAVER M. TILDEN, ATTORNEYS AND COUNCILORS-AT-LAW. Office: 504 J Street, Rooms 8 and 10, Sacramento, Cal.

JOHNSON & JOHNSON, LAWYERS, 504 J Street. CHAUNCEY H. DUNN, S. SOLOMON ROLL, HOLL & DUNN, LAWYERS—OFFICES, 920 FIFTH ST., Sacramento, Telephone No. 14.

WILLIAM A. GETT, JR., ATTORNEY-AT-LAW, SUTTER BUILDING, southwest corner of Fifth and J. Telephone No. 359.

Physicians and Surgeons. DR. WHITE & ROSS, OFFICE: S. E. CORNER SEVENTH AND O STREETS, SACRAMENTO. Office called 1009 Seventh street. Dr. Ross' residence, northeast corner Eighth and H streets.

REMOVED. DR. PENDRY HAS REMOVED HIS office and residence to 706 1/2 K Street, opposite new Postoffice.

DR. T. W. HING, ENGLISH AND CHINESE PHYSICIAN and Surgeon. Graduate of Hongkong Medical College. Office, 926 THIRD STREET.

THE DAILY RECORD-UNION. The Leading Paper of the Interior of California.

The pioneer journal, which, from early years in the history of the coast, has maintained the FRONT RANK OF JOURNALISM, having every news facility with the San Francisco leading dailies, and sustaining the fullest public confidence.

The only paper on the coast, outside of San Francisco, that receives the FULL ASSOCIATED PRESS DISPATCHES and SPECIALS.

IN ALL RESPECTS THE Best Advertising Medium

Clean in all departments, and therefore pre-eminently THE FAMILY JOURNAL. The best paper for the Homekeeper, for the Merchant, Farmer, Mechanic and all who desire the full news of the day presented in a cleanly manner.

ALL PERSONS INDEBTED TO THE CO