

contempt, he will nevertheless tell him that if he wants to find out whether or not the action he is contemplating is within the law he must try it and see if the experiment will result in landing him in jail or not.

A year ago a Philadelphia editor received an article for publication which severely criticized a certain politician. The editor was cautious. He submitted the article to two attorneys to learn whether or not it was libelous. Both assured him that it was not. He accordingly published it. He got six months in jail for libel, and had to serve it, too, although judge, jury, Governor, Board of Pardons and the Supreme Court of the State knew all the circumstances of the case quite well.

The principle that "ignorance of the law excuses no one," is justifiable only on the assumption that the law forbids nothing but what a man ought to refrain from doing, even though no law on the subject existed. It is perfectly proper to assume that whether a man has studied law or not, he ought to know the difference between what is morally right and what is morally wrong. It is perfectly proper to punish a man who deliberately violates moral law whether he knows anything about statute law or not. If no law existed against murder it would be all right to punish a murderer anyway.

The ante-bellum law that punished a man for assisting a fugitive slave to freedom made it none the less the moral duty of every man to assist a slave's escape. The principle that ignorance of the law is no excuse, clearly implies that such immoral enactments as the old fugitive slave law are not valid. Otherwise, it is itself unreasonable and wrong.

A prominent lawyer to whom this reasoning was submitted was unable to return any other answer than that if a man did not know the law he ought to consult a lawyer and be guided by his advice, or if unable to hire one should consult a legal aid society. He declared that any attorney would be guided by established legal principles in giving advice, and that the court will "usually" be guided by the same principles in rendering decisions. Then when he was further asked whether his own statement that "the courts will usually be guided," etc., did not imply an admission that sometimes they will not be, admitted that such was the case. So it seems that even the lawyers admit that a man who follows legal advice is only gambling after all. Under such circumstances, a layman is certainly justified in placing as much confidence in his own opinion of the law as in that of a legal student.

Another attorney who found fault with my position on this matter, declaring it to be every citizen's duty to submit to the law no matter what he may think of it, backed down from his stand when asked how his return of property for taxation squared with the State law on the subject. There are very few advocates of unquestioning submission to law who can measure up to that test.

DANIEL KIEFER.

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A little New York five-year-old—this is a true story—heard his parents talking of King Edward's death. "Why did he die?" he asked. "Perhaps Roosevelt wouldn't have shot him after all."

A. T. P.

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## NEWS NARRATIVE

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To use the reference figures of this Department for obtaining continuous news narratives:

Observe the reference figures in any article; turn back to the page they indicate and find there the next preceding article, on the same subject; observe the reference figures in that article, and turn back as before, continue until you come to the earliest article on the subject; then retrace your course through the indicated pages, reading each article in chronological order, and you will have a continuous news narrative of the subject from its historical beginnings to date.

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Week ending Tuesday, May 24, 1910.

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### The Ballinger Investigation.

Frederick M. Kerby, the government stenographer whom Secretary Ballinger dismissed for "treachery," was a witness in the Ballinger investigation on the 17th before the Congressional committee (pp. 460, 466). He explained his reason for making public the fact that Secretary Ballinger's subordinate, Assistant Attorney General Lawler, had made the first draft of President Taft's opinion exonerating Ballinger and condemning Glavis, by saying that—

so long as there was a chance of his (Kerby's) appearing on the witness stand he thought it would not be right to give the matter to the press; but upon seeing that Ballinger had falsely told the committee that he had no knowledge of the Lawler draft, and learning that Mr. Brandeis was cut off from getting his (Kerby's) information before the committee, also that documents called for by Mr. Brandeis were being withheld, he (Kerby) thought it his duty to make the facts public.

Asked by Secretary Root, who is reported to have exhibited extraordinary excitement, if he did not consider himself engaged in a very disreputable transaction in making his public statement, Mr. Kerby replied that he considered it reputable. In the same connection at another stage of his testimony, being asked why he gave out confidential information, he replied:

I considered that my position as one of the clerks in the government service was not as a confidential clerk to the Secretary, but a confidential clerk to the government.

From information derived from this witness, correspondence between Secretary Ballinger, George W. Perkins (of J. Pierpont Morgan & Co.) and R. H. Thomson (formerly city engineer of Seattle), was sent for. One of the letters from Ballinger to Thomson, dated May 9, 1909, and marked "personal and confidential," was as follows:

Last Sunday I was the guest of George W. Perkins at Yonkers. Mr. Perkins is at the head of the house of J. Pierpont Morgan & Co., as you perhaps know. He told me that he had arranged for a special boat to take himself and party, including his family, to Alaska for the investigation of the feasibility of ex-

plotting Alaska in railroad construction and in other lines in which he is deeply interested. He will sail from Seattle about the middle of July. He is desirous of having an engineer accompany him who is not allied in any Alaskan interests or to any railroad interest or other private connection which would in any way influence his judgment, and he has been insistent on my recommending some one familiar with the western country to take this voyage with him and to advise him. Naturally, I could think of no one so well equipped as you to fill this office, and as the connection is one of importance and the trip would be one of great pleasure and profit, it has occurred to me that you would enjoy this form of vacation. On receipt of this letter please write me whether it will be worth while for Mr. Perkins to consider it possible for you to accompany him. I hope you will not understand by the suggestion above that I have in any sense abandoned the hope of securing your services in the matter about which we conferred in Seattle. I anticipate that not later than September I will be able to formally present the matter to you.

Concluding that it would be inadvisable for Mr. Thomson to go with Mr. Perkins, because he (Secretary Ballinger) wanted him to be in Seattle to meet President Taft, the Secretary wrote, June 2, 1909, another "personal and confidential" letter to Mr. Thomson, saying that Mr. Perkins was quite insistent upon Thomson's assisting in getting a man; and in this letter the Secretary made the following explanation of Mr. Perkins's object in order to enable Mr. Thomson to know what kind of man to get:

The purpose of his trip, in the strictest confidence, is the investigation of feasible railway construction in Alaska with mineral resources and possibilities tributary to any line or lines of road that might be considered feasible, and, in short, desires a man of that experience in engineering and in mining who would be a safe and conservative adviser along these lines. While I know a number of persons on the Coast who might possibly fill the bill, I hesitate to recommend any of them whom I recall at the present time. I know that your acquaintance with men of engineering and mining experience ought to enable you to suggest a man who would fill the bill.

Mr. Thomson undertook to get the right man. While Mr. Kerby was on the witness stand, he spoke of Mr. Thomson as unfit for chief of the reclamation service, to which Secretary Ballinger desired to appoint him. Being asked by Senator Root why he considered Thomson unfit, the witness replied: "Because he had exhibited a willingness to work for Morgan and the Guggenheims." "You think a man who ever worked for Mr. Morgan unfit to serve the government?" inquired Senator Sutherland; to which the witness answered: "When he had worked for them in Alaska, yes."

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The taking of testimony before the Congressional committee was completed on the 20th. Fol-

lowing are the claims made by each side, according to the Washington news dispatches of the 20th:

*Against Ballinger:* That Secretary Ballinger is unfit for public service and is not to be trusted with the administration of the public domain. That he entertained friendly relations with the Morgan-Guggenheim principals, such as made it impossible for him to administer Alaskan affairs in the interest of the people. That he was an easy tool for the special interests who sought to exploit Alaska. That Glavis was dismissed without a chance to answer the charges made against him. That the exoneration of Ballinger and the dismissal of Glavis, as authorized in the President's letter, was based on the findings of Assistant Attorney General Lawler, who had a long standing prejudice against Glavis. That Ballinger attempted to shove the Cunningham coal claims through to patent, even while they were under investigation by field agents. That Ballinger capitalized his friendship and political influence and attempted to persuade Garfield to authorize the issuance of the Cunningham patents. That he reversed the Roosevelt policy of conservation so far as as he was able. That he restored the water power sites to entry and gave the power trust an opportunity to locate valuable powers.

*For Ballinger:* That there is a cold blooded conspiracy on the part of Garfield and Pinchot to discredit the administration. That Glavis was the instrument of this conspiracy, and Ballinger the object of immediate attack. That the Glavis charges submitted to the President were found by him and by the Attorney General to be groundless. That the clear listing of the Cunningham claims by Ballinger was by and with the advice of Schwartz, chief of field service, whose character was vouched for by Glavis. That when Glavis protested, the claims were sent back to their original status, and have remained there ever since. That not an acre of land in the power site withdrawals has been lost and not a claim in the Alaskan coal fields has been patented. That the Lawler memorandum disproves the assertion that Taft allowed Lawler to judge the Glavis charges. Taft did not accept the Lawler conclusions. That Glavis was given full authority and opportunity to prove the fraudulent character of the Cunningham claims. Such proof never has been submitted.

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#### Republican Politics in Wisconsin.

Francis E. McGovern, Insurgent candidate for the Republican nomination for Governor, published his platform on the 21st. It is summarized as follows by the news despatches:

Government for popular rights; protective tariff limited to difference between cost of production at home and abroad; permanent nonpartisan tariff commission; home rule for cities; initiative, referendum,