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H. O. SMITH.
EDITOR AND PROPRIETOR.

A SPLENDID ADVERTISING MEDIUM.

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Dear Judge:

The enclosed explain themselves.

I have been trying to secure Kaiser's "brief" to send you to read. He has promised it — to loan it to me — for a few days.

The prospects of a favorable decision from Judge Dissette who seems to have known you (or of you) when in Carolina, does not seem bright. Am hoping for the best however.

Sincerely H. O. Smith.

A FOOL'S ERRAND

Mr. Kaiser Proposes Another Chapter for the Novel.

SAYS A CERTAIN LAW WOULD DO

THE ANTI-LYNCHING ACT IS HIS CANDIDATE.

He Declares It is Unconstitutional Because It is Class Legislation, and Would Bankrupt the County.

True to his threat, County Solicitor Kaiser yesterday attacked the constitutionality of the act for the suppression of mob violence.

He had filed a demurrer in the cases in which Owen Murphy, George Plumb, Jr., and J. W. Caldwell were suing the county for injuries said to have been sustained from a mob during the trouble at the works of the Brown Hoisting and Conveying Machine Company. The hearing was had in Judge Dissette's room of the Common Pleas Court, but was not concluded. Attorneys Holmes and Vickery represented the plaintiffs and Solicitor Kaiser the county.

ONE OF THE INTERESTED listeners was Hon. Harry Smith, who introduced the bill. Mr. Kaiser, in opening said that a member of the last Legislature from another county went to his office the other day and insisted that he did not have anything to do with the passage of this legislation. He also told Mr. Kaiser that the bill had been drawn up by Judge Albion Tourgee, of Mayville, N. Y., the author of "A Fool's Errand." The solicitor said that if Judge Tourgee intended to write another chapter to that book he should append the Ohio law for the suppression of mob violence.

In the case of Murphy, Solicitor Kaiser said that the petition contained no allegation that the county had notice of the assembling of a mob at the time mentioned. He maintained that the notice was essential to the liability of the county, if there were any liability.

The solicitor said that the act was penal in its character, and that the amount of money to be recovered under it was fixed. Neither more or less than the amount stated, said Mr. Kaiser, could be recovered. Such a notion as the measure of damages has no place whatever in the statutes, said the solicitor. Mr. Kaiser then declared that the statute was uncertain in its meaning in several places, and that it was not susceptible of accurate definition. He said that for this reason the act was practically impossible of execution and CONSEQUENTLY VOID.

"What is the meaning of 'any act of violence?'" asked Mr. Kaiser. "Is a man lynched when a mob merely touches him, and is one thus merely unlawfully touched by a mob to recover \$500 of the county? A mere assault, that is, not even an unlawful touching, but an attempt to touch renders the county liable for \$1,000, without any reference whatever to the question whether any or how much is done to the party assaulted, and all this is a penal statute.

"By the provisions of the statute, if the injury inflicted by the mob leaves the injured party temporarily disabled to earn a livelihood by manual labor, that is to shove a wheelbarrow, use a pick or shovel, wield a hammer or ax, carry a hod, use a hoe, \$1,000 damages may be recovered; and if the disability is permanent may recover \$5,000 damages; but if, after being assaulted by a mob, and lynched within the meaning of the statute, a judge, or lawyer, or doctor, or preacher, or editor, or teacher is still left able to wield these useful implements of manual industry so as to earn a living, but his head is so injured that he cannot do intellectual work, his thoughts will not concentrate, his memory is unreliable, the surgeon's hands are unsteady, the lawyer's and preacher's tongue and jaw will not serve the purposes of speech, and the editor cannot conceive and compose an article for his paper, such injured party, thus permanently deprived of ability to earn his livelihood by intellectual or professional labor, could recover under this statute but \$500."

This is class legislation, claims the solicitor.

THE SPONGE.

Mr. Kaiser Wants to See it Used on a Law.

THAT ANTI-LYNCHING STATUTE

THE COUNTY SOLICITOR SAYS IT'S WORSE THAN NO GOOD.

WOULD BANKRUPT THE COUNTY

BIG SUITS FOR DAMAGES HAVE BEEN FILED UNDER IT.

He Will Attack the Statute's Constitutionality Monday, Although

He is Sworn to Uphold, Not Tear Down the Laws.

Something very unusual will occur in room No. 1 of the Common Pleas Court on Monday morning. County Solicitor Kaiser, who is sworn to uphold the laws of the State of Ohio, will bitterly attack the constitutionality of one of the laws on the statute books. This action is perhaps without precedent in the State and will undoubtedly cause much comment.

The law in question which County Solicitor Kaiser will endeavor to overthrow is known as the anti-lynching law and was fathered by Representative Harry C. Smith. It was intended to stop such affairs as the lynching at Washington Court House some time ago and a number of other outrages committed shortly before.

THE BILL WAS DRAWN.

At the present time there are three actions against the county growing out of the violence at the trouble between the strikers at the works of the Brown Hoisting and Conveying Machine Company last summer. J. W. Caldwell, George E. Plumb, Jr., and Owen Murphy are the individuals who claim to have received injuries at the hands of the mob and are suing the county to recover under this law. They ask damages varying from \$500 to \$5,000, according to the injuries they declare they received.

These three cases, it is understood, do not represent the number of men who will endeavor to secure damages from the county for similar injuries. County Solicitor Kaiser says that he has information to the effect that many more suits are waiting to be filed, the plaintiffs holding back to see the result of the first three suits.

To the three cases Mr. Kaiser has filed demurrers, attacking the constitutionality of the law. He has recently prepared a brief on the demurrers and will submit it to Judge Dissette Monday morning, at which time a hearing will be had. The solicitor defends his action in the matter by saying that he as the County Solicitor, and when the county is threatened, as in these cases, it is his plain duty to protect the best interests of the county. The only way to do this, he says, is to endeavor to have the law wiped from the statute books. He feels confident that it can be done, but refuses to give any of his reasons and refused to allow the brief to go.

OUT OF HIS HANDS.

He said yesterday that if the law was in any way declared to be a valid one, it would mean a big drain on the county treasury. But the solicitor does not fear this will happen.

There are two passages in the law which are interesting from the standpoint of an attorney, and it may be on these passages that Solicitor Kaiser will base his brief. One of these sections is as follows: "Any person entitled to a share in any recovery under this act who shall consent to a release or compromise of such claim in consideration of the payment of any sum less than the full amount of said recovery, shall be liable to indictment for a misdemeanor and punished, at the discretion of the court, as in other misdemeanors."

In this the question has been raised whether the State by statute has the right to prevent the compromise of a civil action against it.

The other section is as follows: "The county in which any lynching shall occur shall have a right of action to recover the amount of any judgment rendered against it in favor of the legal representatives of any person killed or seriously injured by a mob, including costs, against any of the parties composing such mob. Any person present at such lynching shall be deemed a member of the mob and shall be liable in such action."

The solicitor can make a strong case.