CARVELL MAKES UNFAIR CHARGES; BROUGHT TO TIME BY HON. MR. HAZEN

(Continued from page 1)

"And I think that is the universal opinion in Carleton county, everybody you speak to there believe that the man was kidnapped and dragged over the line, the American authorities refuse to believe anything of the sort and say they have complete evidence that the arrest took place on the American side of the line. I understood Mr. Carvell, who took part in the defence of Kelly in Portland, to say that the judge there ruled that he could not go into the evidence whether Kelly was on the Canadian or American side at the time of his arrest, contending that if he was in the United States regardless of how he got there, he was within the jurisdiction, and that even if it were shown that he had been dragged over the line, that would be no evidence against the charge brought against him and would not go in mitigation of the charge. I hope I have correctly repeated what Mr. Carvell said.

Mr. Carvell—"The Hon. gentleman is quite correct."

Mr. Hazen—"That being the case, if that view were taken, by the higher authorities at Washington, then, even though the former minister of justice, Sir Allen Aylesworth or the present minister of justice ,Mr. Doherty, had evidence in support of the same, these authorities, I assume, would not regard that as sufficient reason why Kelly should be given up or why he should be pardoned. I understand Mr. Carvell to say that undoubtedly there was American authority that was produced on the trial to show that the contention made by those acting for the state for the prosecution at the trial and by the judge, was correct. Therefore, even if it has been demonstrated to the satisfaction of the authorities at Washington that Kelly was not arrested in the first instance on the American side of the line but had been dragged over the line by forcible means, if the law is laid down by the learned judge who tried the case at Portland was correct law from the standpoint of the United States the reason would not exist why they should give Kelly up and send him back to Canada."

Mr. Carvell—"I do not wish Mr. Hazen or any member of the House to draw any inferences as to what I stated except the actual facts of the case, because this may be brought to the notice of the United States officials and of Judge Holt, the presiding judge at Portland. I do not know that any authorities were quoted by either the prosecuting counsel or by the judge to substantiate that position. They simply took that position and maintained it and absolutely refused to allow any evidence bearing on the question of how Kelly got into American jurisdiction, an indictment has been found against him, and we are going to try him on that indictment."

Mr. Hazen—"I understood Mr. Carvell to say that there were American authorities. Of course it may be said that in some encyclopadea of law in United States you can get some authority from some state that will support almost any contention. It would seem to me as an international matter, that no country would approve of its officials crossing the boundry into another country absolutely kidnapping a man, taking him by force across the boundary line, then arresting him and trying him on a charge six years old. I should think that it could be proved to the satisfaction of the Secretary of State at Washington that this man had been kidnapped and by force dragged across the line and arrested and tried, the authorities of the United States looking at it from the broad standpoint of international law and justice, would say that the man ought to be given up and returned to the country from which he came.

Enticed Acros the Boundary.

"That may or may not be the case, but that is the way it presents itself to me. But at the same time up to he present neither the Minister of Justice of the Laurier government nor the present Minister of Justice, nor any information that has been given to the State Department at Washington has convinced them that that was the case. On the contrary, they have the opinion this afternoon in the report from the British consul at Portland, a man who investigated the matter, who went into the country and along the boundary line where the offence was committed, who makes a report certainly against the contention made by those on the Canadian side. Still I do not think," said Mr. Hazen, "there is a man in the County of Carleton who does not believe that the man was kidnapped and dragged across the line and was arrested when he got across the line. There is no doubt on this point, that the man was enticed to go near the boundary line by the action of detectives sent by the United States government for that purpose.

"Of course it may be said that that is a method that detectives generally adopt and that they have a perfect right to do it, but it does seem a most harsh and cruel proceeding, six years after an offence for which a man was found not guilty in a court of justice in a British county that he should, by means of that sort adopted by detectives, be taken across the boundary line and then arrested and taken off and sentenced to fourteen years imprisonment for an offence of which he was practically acquitted when a court in New Brunswick refused to allow him to be extradited for the offence. Six years had passed sinec then, during which time he had been an exemplary member of society and a good citizen in the community in which he lived.

Wrote Ambassador Bryce.

I took up the matter with the Minister of Justice, continued Mr. Hazen. But I did more than that, I wrote a personal letter on the subject to the British ambassador at Washington, the Right Hon. James Bryce. I ventured to do this because I have known Mr. Bryce quite a while. I had the honor of entertaining him at my home in St. John when he was in New Brunswick. He visited Ottawa afterwards where I again met him and I had the honor of being his guest in Washington. He had told me here and in Washington if there was any matter of a personal character, apart from any official matter in my department about which I wished to communicate with him, to write him a letter directly, a personal letter, and he would be only too pleased to take the matter up and to deal with it in the way that he thought best. Therefore, interested as I was and believing that an act of very great hardship had been done to the unfortunate man Kelly, on the 22nd of June, 1912, I wrote this letter to Mr. Bryce:

My Dear Mr. Bryce:

Sometime ago a man named Kelly, a British subject, residing in New Brunswick, in the county of Carleton, was arrested by United States officials and taken to Portland and tried for assaulting a customs officer many years before and sent to prison in the United States. I understond the facts of the case have all been laid before you. There is very great local indignation felt in regard to the matter and great sympathy for Kelly and his family. His wife died a few days ago and this makes the case exceedingly hard for his family. The universal belief in New Brunswick is that Kelly was on the Canadian side of the line and was forcibly dragged across into the United States at the time of his arrest. I am not going to weary you with a recital of the facts because, as I said before, I understand they have been submitted to you. I merely wish to say that if you can in any way bring influence to bear on the United States authorities to secure Kelly's release then you will be doing an act which I believ is one of justice and mercy as well.

I am, yours very sincerely,

J. D. HAZEN.

Let me say that about a week before this I had been approached in regard to the matter by a man named John R. McCluskey, of St. John, an officer of the inland revenue department who died about a year ago who was then secretary of the Ancient Order of Hibernians in New Brunswick. He told me the members of that order were very much interested in the case and he would be very much indebted to me if I could do anything to assist to bring the matter prominently before the authorities in Washington. On the 12th of June I received a letter from Mr. McCluskey in which he says:

"I received the enclosed this morning. This makes the case extremely sad. Kindly return the letter." It was a letter announcing the death of Mrs. Kelley. That was on June 12th, eight days before the general election in New Brunswick, and I am quite sure that Mr. McCluskey had no thought in writing that letter of assisting any party in New Brunswick in the election. I wrote acknowledging the receipt of this and it was a few days after that that I wrote the letter to Mr. Bryce to which I referred, personally asking him to interest himself in the matter as an act of justice and mercy. Mr. Bryce wrote back on the 28th of June, six days after the election, saying this:

Mr. Flemming Active.

"My Dear Mr. Hazen: Many thanks for your letter of June 22nd regarding the man named Kelly. At the request of His Royal Highness the embassy applied a fortnight ago for his release on ticket of leave.

"That was the time Mr. Flemming sent a telegram here and it was forwarded to Washington. And the matter is still under consideration by the Department of Justice at Washington. Difficulty has been experienced owing to the fact that such ticket of leave would not, I understand, hold in Canada and U. S. authorities would therefore have to trust to His Honor to return and for this reason it was impossible to secure his release before his wife's death."

"Then Mr. Bryce suggests that he should be put in possession of all the facts in regard to the case as this would enable him to set on foot an application for his pardon. I think Mr. Bryce was mistaken in thinking the embassy was not in possession of all the facts because the facts had been communicated to them in the first place by Sir Allen Aylesworth as Minister of Justice through the Department of the Secretary of States and, in the second place, by the present Minister of Justice. There was some further correspondence. I wrote Mr. Bryce again reminding him of the matter and I also wrote to Mr. McCluskey."

Mr. Hazen then read to the house letters and telegrams which had passed between the Duke of Connaught, the Minister of Justice, Premier Flemming and himself and the British embassy and the United States authorities, which were sent in the effort to have Kelley released. The matter was also taken up by the A. O. H. at Washington.

The Minister of Marine and Fisheries explained that he had gone at length into the question because of the assertion of Mr. Carvell that those who were not of his own politcal faith and who had been endeavoring to get Kelley's release were being actuated simply by politcal considerations.

"As far as I am concerned," said Mr. Hazen, "I want to disavow any such intention from start to finish. The touching letter that was sent to me by Father Murphy in November, 1909, aroused my pity, as it would have aroused the pity of any man who possessed the slightest feeling of humanity. From that moment down to the present hour I have felt interested in the case. I have felt that a great hardship has been done and that the punishment imposed was altogether in excess of what the crime induced into the United States even if he was not arrested on the Canadian side and dragged in, it was a most reprehensible proceeding and that in addition to the long period which had elapsed since the offence charged against him had occurred made the sentence of ten years 'imprisoument by the judge for that offence a sentence which was thoroughly and absolutely in excess of what the justice of the case demanded and that the imposition of a further penalty of four years was little less than an outrage and something that the courts of the United States should not regard with pride in view of the sentences which they impose for other offences throughout the country. On the 3rd of December, 1910, I communicated to Sir Allen Aylesworth the facts of the case in consequence of the representations made to me by Father Murphy. I did not know Father Murphy. I did not know whether Father Murphy or whether Kelley was a Conservative or a Liberal. I never asked anybody what their politics were and I did not care. If it had been reported to me that Kelley was the strongest Liberal to be found in New Brunswick, having some little feeling of decency and humanity, I would have exerted myself just as strongly to secure his freedom as I would if he had been a Conservative. I doubt if there is a member in this house, realizing the responsibility, I care not on what side of the house he is, who would for one moment have stopped to ask the question in a matter of this sort as to what might be the political faith or the politcal principles of this man might be on whose behalf he was asked to interest himself in a matter of this kind.

We would only regard him as a citizen of Canada who had been unfairly and unjustly treated and from that standpoint and that standpoint alone he would exert himself and do all he could for him irrespective of what his politics might be.

Mr. Carvell has gone out of his way and one would almost think that that was the object of his bringing this matter before the house, to make an attack upon the Premier of New Brunswick by intimating that the Premier of New Brunswick took advantage of the death of Mrs. Kelly and the sad circumstances surrounding that event to make political capital on the eve of the elections which occurred on the 20th of June, 1912, I think in view of the documents read by the Minister of Justice and the explanation he gave of these telegrams that Mr. Carvell must now be assured that he was not justified in making this attack upon the Premier of New Brunswick, an attack which was unwarranted and which Mr. Carvell will recognize himself was made without sufficient justification.

What was the charge that Mr. Carvell made against the Premier of New Brunswick? The general local elections in New Brunsmwick were held on the 20th of June, 1912, Mr. Flemming, the Prime Minister, was, as he always had been during his political career, a candidate for re-election in Carleton county with two other gentlemen on the ticket , the constituency returning three members shortly before the election, it would appear from the correspondence that Mrs. Kelly was seized with what proved to be her last illness, relatives and friends of Mrs. Kelly went to the Premier who was the nearest member of the government available, and who was residing in the county not far from where Mrs. Kelly lived, and asked him if he would not make a last effort so that Kelly might get out of penitentiary and return to his home before his wife passed away. I care not whether an election is being held or not, is there a man in Canada who would refuse an appeal of that sort? The Premier of New Brunswick did just what Mr. Carvell would have done, just what I would have done, or what any other man in this house would have done, he addressed a telegraphic communication on the 10th of June to the Secretary of State at Ottawa, as follows:

Premier Flemming Asks Pardon

"William Kelly of Richmond, N. B., was convicted about two years ago for assaut on a customs officer and for smuggling and sentenced to Atlanta prison for fourteen years. There have been serious doubts whether he was arrested in the United States, it being strongly claimed that he was on British soil when arrested. His wife is now seriously ill with an incurable disease and will probably not live more than a month. He has nine helpless children. Will you not make an earnest appeal on his behalf. Humanity calls for his being allowed to see his wife before she dies, feeling very strongly that he should be liberated on ticket of leave, kindly appeal to President Taft if necessary.

(Signed) J. K. FLEMMING,
Premier, N. B."

That telegram was received in Ottawa on the 11th inst. and Mr. Flemming was sent the following reply by the under secretary of state, Mr. Thomas Mulvey, "Your telegram respecting case of William Kelly received and transmitted to Governor-General for action."

On June 11 Mr. Mulvey sent this communication, which I should judge to be a letter and not a telegram to Mr. Flemming:

"I have the honor to acknowledge the receipt of your telegram of the tenth inst. This subject has been communicated to the governor general's office in order that his royal highness, if he deems it proper to do so, may transmit it to the Hon. Mr. Bryce, British Ambassador at Washington."

On the 15th June this telegram was received at the governor general's office:

Washington, D. C., 15th June, 1912.

Referring to your telegram of the 11th of June, the United States must be informed where Kelly will go if relased on ticket of leave. Is his wife at Richmond? Telegraph reply with least possible delay to 26 East Huron street, Chicago.

(Signed) INNES.

That is the signature of Mr. Mitchell Innes who was the principal official in the British Embassy during the time that Hon. James Bryce was British ambassador. Having received that, Mr. Pelletier, an official in the department of the secretary of state, on the 17th June, three days before the election, wired this to Mr. Felmming:

Hon. J. K. Flemming, Premier of New Brunswick:

Referring to your telegram of the 10th inst., re the application for release of William Kelly of Richmond county, of New Brunswick, United States must be informed where Kelly will go if released on ticket of leave and also if his wife is at Richmond, answer immediately.

On the 18th, Mr. Flemming sent this wire from Houlton: "Telegram received. William Kelley's wife died yesterday, nine children without anyone to care for them. Kelley would no doubt desire to come to Richmond, New Brunswick, if released. (J. K. Flemming.)"

That is the whole correspondence with regard to this matter, so far as I can see, I think, that if I had received that telegram from Mr. Mitchell Innes of the ambassador's office asking to be informed where Kelley would go if released, I would have felt buoyed up with the hope that the question was being asked because it was the intention of the United States authorities to release him forthwith.

I do not hesitate to say for a moment, and I submit to the gentlemen of the house in that regard, That telegram was received by Mr. Flemming and responded to by Mr. Flemming and the charge which Mr. Carvell makes, is that on the day of the funeral of Mrs. Kelley, I presume it was the day before the election, or the day of the election, because she died on the 17th, as I see from the correspondence the telegram from Mr. Flemming is dated on the 18th and he says she died last evening, so that the funeral would not be earlier than the 19th or 20th, I take it for granted that Mr. Flemming communicated, as it was his duty to do, with those friends who had been urging Kelley's release, a copy of the telegram received, from Mr. Mitchell Innes at Washington, and they may have come to the conclusion, and I would not blame them for doing so, that meant that Kelley was going to be released.

Mr. Carvell has referred to the impression which a lady, no doubt acting in possibly good faith and who was present at the funeral, gave as to what she understood the telegram to contain, but I would not be a bit surprised and I think the fact is, that the telegram was a copy of the telegram from Mr. Mitchell Innes to Premier Flemming and from the fact that they ask, in the event of his being released, to what place he would be returned, they jumped to the conclusion that negotiations had proceeded so far that the American government had decided to discharge him.

I know Mr. Flemming probably as well as any man knows him. He was an associate of mine and was my right hand man in the House of Assembly for twelve years. We sat together in opposition and we sat together as members of the same government, and knowing Mr. Flemming as I do I have no hesitation in saying that Mr. Flemming would, under no possible circumstances, whether, he needd votes, and he did not need them much at that election, judging by the result, or whether he did not, under no circumstances would Mr. Flemming, nor would any other man with the slightest sense of decency or respectability endeavor to make politcal capital out of so sad an event as the death of Mrs. Kelley, and out of the circumstance of her husband being confined in a penitentiary in the States, the idea, that when friends were assembled at a grave, when the angel of death was hovering over a household, when the people were wrapped in grief and mourning, that any man with any sense of decency would resort to a trick of that sort, is beyond comprehension.

Knowing Mr. Flemming as I do, I unhesitatingly say that he never would be a party to a proceeding of that sort. Mr. Flemming acted as anyone else would under the circumstances, in making the request to the Department of the Secretary of State, and in addition to that he no doubt handed to the relatives of Mrs. Kelly the telegram that had been received from Ottawa, which had been sent first to the State Department at Ottawa and then to Mr. Flemming. From that telegram, they would, without doubt, have reasonably buoyed themselves up with the hope that a decision had been come to and that Kelly was going to be released.

Mr. Carvell—"Would my Hon. friend give me the date of the telegram from Mr. Mitchel Innes."

Mr. Hazen—"The telegram from Mr. Mitchell Innes to the Governor-General's Secretary is dated 15th of June, the telegram from the State Department here to Mr. Flemming is dated 17th of June and it was on the 18th of June that Mr. Flemming telegraphed back to the acting secretary of state, Mr. Pelletier, telling him Mr. Kelly's wife had died the previous day which would be the 17th, the day that the telegram which had been received by the Governor-General was sent out from the Secretary of State Department. Perhaps I have trespassed too long upon the attention of the house, but it is a serious question and a most serious charge has been made by Mr. Carvell.

I thought it was only right to give the full particulars to him. I can say that from the time I was first approached by Father Murphy of Debec in 1909, down to the present hour, the thought of making any political capital out of this event has never once entered my mind. I would like further to say, that I still believe as strongly as I have felt all through, that a very great hardship has been done to Kelly, I do not attempt to excuse him for smuggling, but admitting he did the worst that is charged against him, he has done nothing under all the circumstances which to my mind justifies such a punishment as has been meted out to him.

Petition to the President

And when everything possible has been done by the Department of Justice under both governments to bring about his release and his restoration to his nine unfortunate children deprived of a mother's tender care in their childhood, while that has been done, we still have the fact that Kelly has been in the penitentiary for a period of nearly four years and perhaps now a strong appeal might be made. Along these lines when I suggested it, a year ago. A strong appeal might be made on the ground of humanity and on the ground of mercy, to have the man released from the penitentiary before his sentence has expired. I do not think there is any more to be gained by presenting arguments on the ground already presented. Apparently everything has been done in that direction that could be done, but something might be done, emanating perhaps from the Province of New Brunswick and the citizens of New Brunswick, by means of the presentation of a petition to the President of the United States and by strong urging of this petition, to have the sentence of this unfortunate man commuted. If I can contribute anything to that by my personal services, as I said in the letter I wrote, and even going to Washington personally to see the President, or the other proper authorities, I will only be too glad to do so and doing so I would not feel that I was doing any more than one man should do for another, in the interests of our common humanity.

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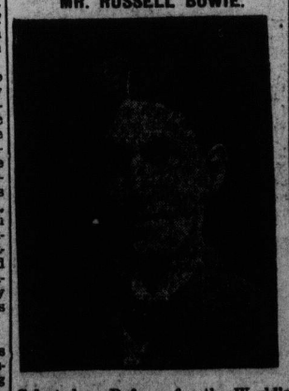
Those who are interested in efforts for the uplifting of humanity and improving the lot of the man who is down will find there is much to interest them at the mass meeting in the Imperial Theatre next Sunday afternoon. The subject dealt with will be: Who is my neighbor? Help the man to help himself, and the Metropole campaign plan. His worship Mayor Frink will be presiding. The orchestra will furnish music from 3.30 to four o'clock and assist in the programme. Such well known artists as Messrs. D. B. Pidgeon and A. C. Smith will assist.

A CHALLENGE.

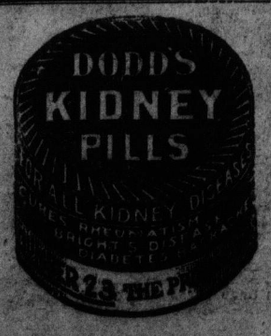
C. H. Magee, of St. George, has issued a challenge to Hugh Love, of St. John, to match his fast mare Lady Fondly against the ice wonder, Jay Wilkes for a purse of $100.

Mr. Love has accepted the challenge and the race will take place on Lake Utopia on Wednesday, the 18th. Mr. Magee's racer, Jay Wilkes, is in fine form, has been stepping an eighth in 14 seconds, and a quarter at the same rate, and the race promises to be of unusual interest.

MR. RUSSELL BOWIE.



Selected as Referee for the World's Championship games.



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The Break Away Tables and Chairs
Majestic "THE GOD OF A TOMORROW" Unusual tale of a Chinese Idol
WEEKLY NEWS More Interesting Than Ever 40 BIG EVENTS 40
Thanhouser "The Head Waiter" Delightful comedy of what might have been
THUR.—The Rayner—Best Act of its kind seen in St. John for some time