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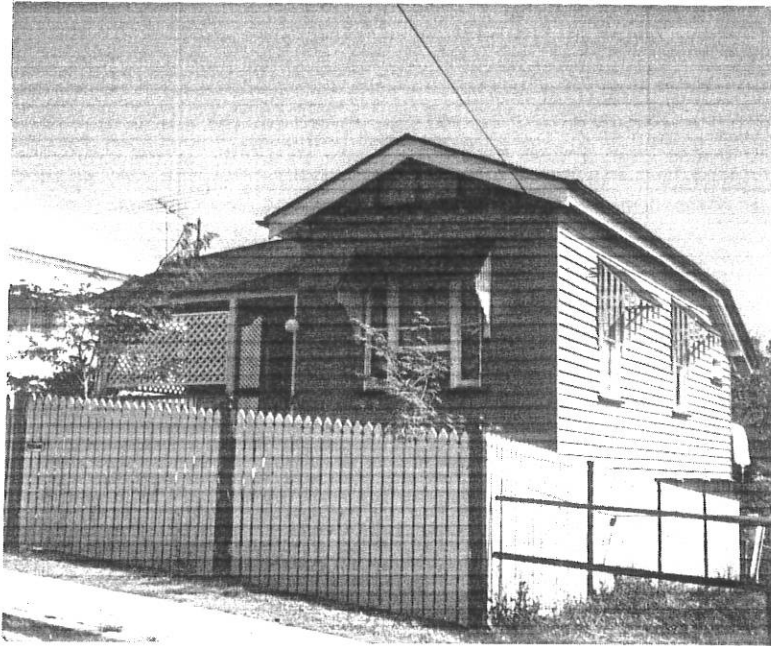
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**Editor: John D. Kerr**

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16. MC 10 August 1932.
17. Queensland Parliamentary Debates 91,108 and 92,122.
18. ibid 90,919 of 22 October 1902.
19. ibid 91,784-785 of 20 October 1903.



*The Worker's Dwelling with the character of the 1920s eagerly sought in the 1990s; this example at 9 Dacca Street, Red Hill.*

M.F. Mayers

## To Silence a Jackdaw Gagging the Northern Miner

by the late Donald Hector Johnson

During his 17 years as editor of the *Northern Miner*, Thadeus O'Kane faced many libel actions. Some of them claimed such substantial damages, if they succeeded, as to bankrupt the newspaper and force it to close although this was never the stated intention of the plaintiff. The actions were brought by individual citizens, ostensibly to repair damage to their reputations. There were, however, several actions which were in a class of their own, for they were specifically designed to gag the paper.

In January 1874, O'Kane bought his partner J.S. Reid's half-share and became sole owner of the *Northern Miner*; it was the first time he had enjoyed total editorial control since selling the *Kerry Star* in 1863. Within a month he received his first writ for libel. The plaintiff, J.E. Rutherford, whom O'Kane cheerfully reviled as a "black Irish protestant", claimed damages of £200, and was awarded £1 by the jury. It was to be a not uncommon award, an acknowledgment of the accuracy of O'Kane's comment, weighted perhaps with an estimate of the value of the plaintiff's character. The other effect of a verdict for the plaintiff, however small, was that the defendant had to shoulder all the costs.

Recourse to the legal system having proved less than sufficient to curb O'Kane, another group opposed to his editorial line appealed to the court of public opinion. The verdict was unequivocal:

An indignation meeting was held at Millchester last Saturday evening, called by Messrs John Rutherford, Bowker, and Bliss, of the Queensland National Bank, friends of Mr Francis Gill, assistant Gold Commissioner, to express indignation at a leading article of the *Northern Miner*, pronouncing Mr Gill incapable, and demanding a Government inquiry into his conduct, and his suspension from office for tampering with the records of the court. The article was read amidst great applause, and the meeting adjourned to the open air, six hundred diggers being present.

The Committee had underestimated the degree of popular support for O'Kane. Six hundred diggers at Millchester meant that many miners from the Upper Camp had made the two mile trek down for the meeting, for the mines about Millchester were failing, and the village could only muster about 150 miners.

Tom Kelly moved the vote of censure against O’Kane, “amidst great excitement” in the *Miner’s* coy description of the mood of the crowd, sufficiently threatening to deter anyone from seconding it. Kelly was, as Macrossan’s lieutenant, a prominent member of the anti-O’Kane faction. Like most of Macrossan’s supporters on the Towers, he was an Irishman, born in Cooraciere, County Clare, in 1838. He arrived in Gympie in 1866 and came to Charters Towers soon after it opened. With Richard Long he had jumped the reward claim of one of the original discoverers of the field, George Edward Clarke. It was not the least of the incompetencies for which W.S.E.M. Charters had been removed from Charters Towers in 1872 that he had awarded the claim to Kelly and Long.<sup>1</sup>

From this unpromising start, Kelly became one of the more successful mining investors on the field. He was a shareholder in No.4 Queen Block with Stublely and Macrossan, and an early shareholder in the Identify line, where he combined Nos. 1-4 South into Kelly’s Caledonia. All were productive mines.

Kelly was a Millchester man, as was Pat Hishon, the chairman of the meeting. Hishon was a publican and could read the mood of a crowd as well as most. He abandoned the chair. O’Kane’s supporters took over the meeting, and the article was “enthusiastically approved of”. The editor of the *Northern Miner* was chaired from his office on the diggers’ shoulders, and a resolution was carried approving his conduct.<sup>2</sup> The meeting then dispersed quietly, doubtless to the relief of the authorities. Eighteen months previously the Millchester mob had demolished a building and later terrorised Upper Camp. Both villages followed the old English tradition of inter-village brawling. In 1876 the Millchester mob turned the tables on O’Kane when they took over an anti-Macrossan meeting in Upper Camp, or Charters Towers, as it had by then become known.<sup>3</sup>

O’Kane’s first campaign against a Commissioner was successful; Gill was shortly afterwards removed from the commissionership, although he later returned as Police Magistrate. After his replacement, there was another round of transfers and W.S.E.M. Charters found himself back in command of Charters Towers, his title under the 1874 act changed from Commissioner to Warden. The office still retained considerable power; until the appointment of a municipal council in 1877, the Warden was the effective ruler of Charters Towers.

Although an imposing figure, Charters was not a very effective ruler. He was either very ill or a hypochondriac. Throughout his career on the goldfields there was constant complaint about his unavailability on account of illness. Apart from the question of his health, he appears to have approached his duties most casually — Clarke and Fraser were not the only losers. After administering the goldfield for

its first ten months, Charters had been suspended, censured, and transferred to Gilberton, where he remained in virtual exile until permitted to return to the Towers late in 1874. The proximate cause of his suspension was refusal to obey directions, but incompetence was a contributory factor. O’Kane was never an admirer.

Early in 1876 O’Kane again criticised the warden and continued the attack until Charters was forced to retaliate. Appeals to court and people having failed to gag O’Kane, Charters appealed the state. The colonial government in Brisbane telegraphed their approval to proceed by way of criminal law, and for the first time in a long career of litigation, O’Kane found himself in the criminal dock.

The burden of O’Kane’s various charges was that the Warden was playing favourites. In a *Miner* leader on 5 February 1876, O’Kane sharply criticised two of the totems of the goldfield, its eponymous warden and its chief discoverer. As the author of the act under which the irregularities occurred, the Minister for Mines, H.E. King, also came in for criticism. The fact, never in dispute, was that on 20 August 1874 Warden Gill had granted to Hugh Mosman a 40 acre homestead lease under the 1870 Goldfields (Homesteads) Act. Charters allowed him to take up a second lease of 40 acres. O’Kane argued that this might have been permissible within the letter of the act, but was in violation of its spirit, for the Act was intended to foster closer settlement in the vicinity of a goldfield. In a swingeing attack on the apparent encouragement of land monopoly, O’Kane was fairly sharp concerning Mosman’s squatting background, took a hearty dig at Charters’ application for a slaughtering licence at his Broughton station, and hinted none too delicately that Mosman had bribed him: ‘blinded him with bullocks’. He attacked “King’s Act”, and to ram home the point of patronage, alleged that two prominent butchers had been refused similar miner’s homestead leases on the borders of Mosman’s lease, and been forced to peg elsewhere.

This attack placed the opposition paper, the *Northern Advocate* in a quandary, for that journal had originally been edited by Macrossan, and he still held a third interest in it.<sup>4</sup> Macrossan was just then in the process of crossing the floor to oppose McIlwraith’s administration. His loyal paper had to steer a difficult course in attacking O’Kane for criticism of an Act it also opposed. Undeterred by any equivocation, it pilloried O’Kane with its customary restraint and courtesy, before proceeding to the demolition of the act and its author. The blame, the *Advocate* asserted, lay with H.E. King for

... this iniquitous act, denounced by the leading papers of the Colony as tending to create more “jobbery” and “dummying” on a small scale than any that has preceded it. It has done so. It is the curse of Gympie, and public meetings are now being called to ask for its recall.

The editor considered that the second lease granted to Mosman was illegal, for he had failed to comply with rental and improvement requirements, and he called on the local member to table all papers and documents relating to the case

... to discover by what sleight of hand trickery this lease was granted a year after the time it was, under the Act, clearly forfeited ... we rather think Mr Mosman's friends are not in the Warden's office but in the office of the Minister for Mines.<sup>5</sup>

In the same issue a letter from "a Resident on the Wellington" stated "If the Warden has sanctioned the grant of the lease Mr Charters should be sacked straight away".

On 22 April O'Kane returned to the attack, and detailed two more cases of administrative favouritism. The first was another lease application under the *Goldfield (Homestead) Act*. The two butchers Harvey and Chick had both applied on 26 January for forty acre leases on Charters Towers Creek and lodged plans of the claim on 8 March, after Charters had accompanied them to the sites and pointed out the boundaries. Despite these precautions, they were compelled on 25 March to adjust their boundaries to conform with a later grant to a squatter, Donald Macintyre. Mowbray, the Clerk of Petty Sessions, confirmed that Harvey and Chick had lodged their plans but on their remonstrating, Charters "threatened that if they did not remove their pegs he would block them altogether from that ground." Was Charters, O'Kane demanded, "asleep, or scouring the country after his own bullocks, or sending the Queensland Constabulary to make conciliatory visits in search of stolen hides (his hides)? Is he a warden or a grazier?"<sup>6</sup>

In the same issue he reported the case of the Caledonia Lease. Michael Dunn had applied for it to be forfeited for non-compliance with labour conditions, and granted to him. Despite Dunn's initiative, Henry Wyndham Palmer ended up in possession of the lease. Dunn confirmed O'Kane's version in a letter to the *Miner* on 26 April. He stated that he had pegged the Caledonia on 20 March, but that as soon as Charters had been informed by the Mines Department that forfeiture was approved, he went with Palmer to the lease and allowed him to peg it.

This second attack stung Charters into retaliation. On 27 May 1876, O'Kane was charged before Dicken P.M. and J.B. Ross J.P. on the information of Charters with uttering malicious and defamatory libels on three occasions, the leaders of 5 February and 22 April and Dunn's letter of 26 April. The prosecutor was at pains to justify proceeding by way of criminal rather than civil action. He stated that Charters had taken this course on the advice from his lawyers and his friends. The delay was because government permission was needed to

prosecute, which had eventually been given by telegram. He declined to produce a copy of the telegram.

On the first count Charters, beyond relying on the defence that the initial lease to Mosman had been granted under Gill's wardenship, merely denied favouritism. On the second, Harvey's and Chick's boundaries, the prosecution unwittingly demonstrated the act of dummyping. Macintyre admitted that one Cadenhead occupied the lease on his behalf. Charters conceded that the butchers had lodged their lease plans before the grant was made to Macintyre. On the third count he equivocated splendidly, attributing most of the blame to Mowbray and alleging that O'Kane was biased against him because he had refused to appoint the editors of both newspapers to the Commission of the Peace.

The magistrates found that there was a *prima facie* case and committed O'Kane to stand trial at the next sittings of the Supreme Court in Townsville. He appeared there on 20 October represented by Blake Q.C. The three charges were consolidated into one. The prosecution evidence was identical with that led in the lower court. The jury failed to agree, and O'Kane was released in his own recognisance of £200, with two sureties of £100 each, to appear for trial if called upon in the next twelve months.<sup>7</sup>

The case was never recalled, and one is left with the suspicion that it suited the government to leave O'Kane in this legal limbo, with the threat of being recalled to face a jury if he again offended. It was a desirable result for Charters and, one supposes, for the colonial government, however repulsive on grounds of natural justice. George Street governments have always considered the law to be their servant, rather than their master.

Charters Towers was now at the beginning of the spacious years when it would be Australia's premier goldfield. Gold production continued to rise for the next twenty years. The field was dominated by a cluster of home-grown capitalists, Deane, Mills, Pfeiffer, Plant, later joined by Miles and Millican. They enjoyed almost unfettered control. Opposition was almost non-existent. The union movement was embryonic; high wages in mining and full employment throughout almost the entire period meant that the most cohesive and powerful of the trades had no incentive to organise. If the miners combined, it was usually for a specific end, more an extension of the roll-up than concerted labour action. Until the nineties, popular perception of the rights of capital was uncritical; when Tom Mills dismissed a miner for having signed a petition against Tom's interests, even an old radical like O'Kane saw nothing untoward in the action. In Victoria, seven miners were dismissed simply "for being associated with the formation of a union", although they were later reinstated.<sup>8</sup>

*The Northern Miner* constituted the only consistent focus of opposition to the supremacy of the big mill and mine owners.

The oligarches who controlled the Towers had at their disposal their wealth and the local courts. Indeed, most of them *were* the courts, by virtue of their appointment to the bench of Magistrates. Appointment as a justice of the peace was in the gift of politicians and the Petty Sessions bench in Charters Towers reflected the fact that conservative governments had been in power for most of the life of the goldfield. It was composed of the more powerful businessmen and mine and mill owners on the goldfield. They read like a roll-call of O'Kane's court actions, and they wielded ample power to break a newspaper editor.

O'Kane's only weapon was public support. *The Miner* was beginning to command a following among the miners. In time of crisis they tended to rally to its defence.<sup>9</sup> Its opponent the *Northern Advocate* reflected the vagaries of Macrossan's political pilgrimage — not conducive to consistent policy — and the influence of a series of not particularly gifted editors.

By 1881 O'Kane had won or drawn most of his libel actions, making it apparent to his opponents that they would need a skilled lawyer to bring the pestiferous editor to book. William Pritchard Morgan, born at Pilgwenelly, Wales in 1844 and who emigrated to Queensland in 1864 and was admitted as a solicitor at Maryborough in 1872, proved to be their man. Morgan, not the last diminutive Welshman to trouble the antipodes, was another of those goldfield characters in whose career it is difficult to separate fact from fiction. In 1888 when he was safely back in England and member of parliament for Merthyr Tydfil, a Welsh newspaper published a series of anecdotes on his time in Australia. Perhaps the claim that in the course of his twelve year career in law and mining speculation in Australia he had made and lost a fortune equal to that of Frank Stubbley, some £ 200,000 — which was certainly not the case — can be taken as a yardstick of the article's veracity. It is stated that he had arrived penniless in Sydney and began work on a farm where he rapidly rose to a partnership with his master. The sale of the farm financed his legal studies.<sup>10</sup>

According to his evidence under oath, he commenced practice in Brisbane in 1872 but another contemporary sources that he was admitted as a solicitor in Wales and commenced practice at Newport, Monmouthshire.<sup>11</sup> The most romantic version appeared in the *Sydney Bulletin* which had a soft spot for larrikins:

He arrived in Queensland while quite a young lad ... found himself pecuniarily stranded ... and [established] himself ... as a shoeblack in the then flourishing town of Ipswich ... got a billet in a lawyer's office,

managed to article himself, passed his examination, set up in business for himself at Maryborough, then at Gympie, next at Mount Perry.<sup>12</sup>

Sources are in closer agreement on his appearance. The *Sydney Bulletin* described him as "a little man with big black eyes .. one of the smartest police court lawyers yet born."<sup>13</sup> When they were no longer friends, O'Kane described him as "the chimpanzee attorney .. likewise one of those little Indian gods."<sup>14</sup> By others he was remembered for his excellent singing voice. Spencer Browne remembered him as "a wonderful natural musician".<sup>15</sup> He was a billiard player "above the ordinary",<sup>16</sup> and as soon became apparent, a legal tactician of considerable flexibility.

By 1882 Morgan's experience with the Queensland press included part-ownership of one newspaper and an attempt to silence another, a curious action that resulted in some embarrassment for the magistrate who accepted his submissions. In his next action against a newspaper the entire bench found themselves in a similar position.

Early in 1874 John Bust, one of Morgan's clerks, swore to the magistrate at Tenningering that no certificate for printing had ever been issued to the *Mount Perry Mail*, as required by law. Morgan, who appeared for the complainant, applied for a warrant for the seizure of the press. he told the Court "that the paper had been informed against because of its violence towards himself personally and that he was sorry that he had not prosecuted it earlier".<sup>17</sup>

He later informed the Bench that all the printing press and type of the defendant had been seized by the police, stated that he did not wish to press the charge and withdrew the prosecution of the case. The unfortunate magistrate, A.W. Compigne, was left with a considerable amount of explaining to his superiors. He was severely reprimanded and forced to return the type to the newspaper.<sup>18</sup>

Charters Towers first saw Morgan in 1875. He presented the traditional pair of kid gloves to Gill, presiding at the opening of the new Charters Towers Police Court.<sup>19</sup> The only record of his early mining ventures on the field concerns the loss of a lease on an obscure line of reef, for non-fulfilment of labour conditions.<sup>20</sup>

In 1876 Morgan moved to Cooktown where his first recorded public act and an attempt to horsewhip Bailey, the editor of the *Cooktown Herald*. It misfired, for Bailey dragged the diminutive lawyer from his horse, and thrashed him.<sup>21</sup> Later that year, in partnership with F.C. Hodel, Morgan bought the *Cooktown Courier*. He stood as a candidate for Cook in the 1878 election and lost.<sup>22</sup> He had a capacity to sniff out a loophole, and managed to upset a verdict by establishing that one juror was not a British subject.<sup>23</sup>

Charters Tower was the natural destination for an ambitious lawyer in northern Queensland, especially as legal talent was not in oversupply. Morgan returned in 1880, almost at the same time as a new warden, Philip Sellheim. If O’Kane was happy to see the last of his old adversary, Warden Charters, he was equally pleased to hail the arrival of “the smartest solicitor in the north. There has been a sad lack of legal brains here, and it will be quite refreshing to see a man start who knows the law and is able to plead.”<sup>24</sup>

O’Kane’s delight was soon qualified, but they began as associates, if not close friends. A few days after Morgan’s arrival, O’Kane was nominated to contest a bye-election at Bowen in the Liberal interest. He was accompanied to Bowen by W.P. Morgan and L. McLean. His opposition travelled on the same boat. Bob Russell and A.W. Wilson had culled from back issues of the *Miner* anything O’Kane had ever published derogatory of Bowen and, hastily reprinted at the *Towers Herald* office, it was brought along as ammunition for the campaign.<sup>25</sup> O’Kane was soundly defeated.

Morgan entered enthusiastically into the legal area and was soon in collision with the bench and local lawyers. He received a good, albeit somewhat satirical, press from the *Northern Miner*. O’Kane employed Morgan professionally in 1880, in a series of cases against an alcoholic and mildly deranged former employee.

The *Miner* and its fighting editor was known all over Australia. One of his first and staunchest allies, the *Sydney Bulletin*, called him “our journalistic brother in misfortune”,<sup>26</sup> listed each of his libel actions. It is a matter for speculation whether the incessant publicity O’Kane gave to local chicanery contributed to the reluctance of southern capital to invest in Charters Towers.

By 1881, the *Miner* had survived at least a dozen libel actions, most, if they succeeded, attracting only the traditional farthing damages. It was to be a year of apologies for the paper. John Cooper won the first, for “language in excess of fair comment ... altogether unjustified” as O’Kane admitted in an uncharacteristically handsome apology.<sup>27</sup> Ross Robinson received the next apology. Robinson had described O’Kane in the *Herald* as an “evil old man” and “got more than he bargained for” in reply.<sup>28</sup> Despite the apologies, both men issued writs for libel which O’Kane countered with cross suits. Morgan appeared for O’Kane in both actions. Robinson was awarded £20 damages while O’Kane received £10 in the cross action.<sup>29</sup>

The *Miner*’s next legal battle went directly to the foot of the throne of Zeus. During District Court sittings in March 1881, Judge Hely complained of “the persistent misrepresentation of proceedings in this court by a certain newspaper” and subsequently issued a writ for libel with damages set at £2000.<sup>30</sup> O’Kane commented that it

was the first action ever brought by any British or colonial judge for comments on his public actions as a judge. Hely retained the five most senior counsel at the Queensland bar.<sup>31</sup> As, by custom, counsel who appeared for a judge charged only one guinea, O’Kane considered it a substantial force to array against “a poor pressman, a Jackdaw of Reams”. The effect of the action, if not the intent, limited O’Kane’s prospects of a successful defence; it was definitely not the profession’s finest hour. His Honour, having preempted any possibility of a successful defence, imposed his conditions on the vanquished, requiring him to apologise in four specified newspapers. The editor was irreverent, if relieved, and offered to apologise “in 4000 newspapers”: like the *Bulletin* he was prepared “to efface himself, to grovel”. The sardonic tone suggests that he regarded the affair as another move by the McIlwraith government against one of its most vociferous opponents.<sup>32</sup> The exercise cost him £52 in legal fees.

In the same year O’Kane made another enemy in the legal profession who would prove to be far more dangerous. Morgan had acted for him, although in 1880 O’Kane on several occasions voiced suspicions that Morgan was writing for the “Coolie” *Herald*.<sup>33</sup> The truth of the allegation cannot be proved. In December 1881 Morgan appeared for John Deane in a libel action against the *Miner*. O’Kane was compelled to defend himself. He complained to Judge Hely that Morgan had accepted his retainer for the year, presenting a receipt in proof. Hely agreed that Morgan was “acting in bad taste” but the case proceeded nonetheless and Deane won £100 in damages.<sup>34</sup>

O’Kane was not one to forgive desertion. Morgan, he wrote, “had restrained his political excitement for the past two years to get a crown prosecutorship”. He “now edits the *Herald* for the Double Knot, the Deane Hamilton Cooper Stubble Mosman Sachs connexion”, a neat combination in one sentence of most of O’Kane’s aversions on the field.<sup>35</sup> He became convinced that an effort was being made:

to wipe out the *Miner*, the conspiracy is cunningly laid. A double-barrelled piece is to be fired at the *Northern Miner* in Townsville next month — a criminal action for libel, Hamilton, promoter; a civil action, damages £1000, Deane, promoter, Morgan “head centre” and promoter-general.<sup>36</sup>

The Darling Downs Gazette agreed, remarking that O’Kane was:

too honest and outspoken for many persons in his district, and that several of the prosecutions against him have been vexatious, and for the purpose of driving out one who is too scrupulous a journalist and too honest a man to lend himself to any “little games”.<sup>37</sup>

If Morgan was in fact conducting the campaign, it was by no means one sided. Throughout the early months of 1882 the *Miner* kept up a galling fire on its diminutive opponent. His bullying behaviour in

Court was a constant theme while references to his “bogus companies”, his personal behaviour and his quarrels with other local lawyers appear in almost every issue.<sup>38</sup> It was a thinly veiled reference to marital infidelity that finally provoked Morgan into a precipitate response that made O’Kane a popular martyr.

The article was, even for O’Kane, remarkably personal. “Samuel, beware of vidders”, it ran:

She was a widow, soft and fair, and skilled in all the arts of coquetry. She dispensed smiles and nobblers with charming grace. He — an offensive celebrity, blas, unprincipled, an unbeliever in man’s honesty or woman’s virtue, a salacious limb he yielded to the fascinations of that widow. She suited him, they were on a common level and knew it. His schemes had all failed, his traps been broken, and he came to the “vidder” for comfort. She comforted him with deep draughts of Hennessy and other things. At his house a place-faced sad-eyed woman sits and waits for her beloved who is so buried in business and the “vidder” ... while the “vidder” chafed his burning brow and gave him a “stiff un” in the morning.<sup>39</sup>

The paragraph stung Morgan to fury. A libel action would follow but he wanted more immediate revenue. On the day after publication of the offending article, Morgan proceeded by way of summons against O’Kane, stating that he “did on the 9th of May at Charters Towers, and on other and diverse occasions make use of, and has for a long time continued a course of conduct of unmannerly and quarrelsome words towards one William Pritchard Morgan of Charters Towers, tending directly to a breach of the peace”. O’Kane was in no doubt that he had provoked his opponent into an all-or-nothing action: “The brave Morgan’s last plank”, he called it.<sup>40</sup>

At Morgan’s request, Police Magistrate Sellheim summoned a full bench of magistrates to hear the case. It was a roll-call of O’Kane’s enemies: Deane, Charters, Kelly, Buckland and Cooper, of whom only Tom Kelly had not at some time faced O’Kane in court, although as Macrossan’s loyal lieutenant he had no cause to love the Miner. Marsland, defending O’Kane, objected to Deane on the bench, for he had an action pending against O’Kane: Deane remained.

The summons, the defence contended, disclosed no specific charge. It was laid under a statute of Edward III, 522 years old, enacted in the days before newspapers came into existence. O’Kane’s old adversary, W.S.E.M. Charters, accepted the force of Marsland’s argument and withdrew from the bench. Morgan in evidence swore that he would “split defendant’s skull open” if he was not restrained. The other witness, Fred Hamilton, admitted that he “felt like killing” the defendant. Marsland immediately applied to the court to have Morgan and Hamilton bound over to keep the peace, but the bench was not to be diverted: O’Kane “could seek a remedy afterwards”. After a short retirement, the bench granted Morgan’s application, and

bound O’Kane over to keep the peace of 12 months, in his own surety of £100, and with two supporting sureties of £50 each.<sup>41</sup> It is unlikely that the bench foresaw the uproar their decision would provoke.

The *Townsville Herald* opened the chorus of outrage on behalf of the Australian press:

It appears rather an Irish way of preventing skull cracking, to tie the hands of the intended victim behind his back and put a gag in his mouth, that is how the trick is done in Charters Towers.<sup>42</sup>

Public reaction on Charters Towers was immediate. The ubiquitous chairman Fred O’Donnell called a meeting to form a Free Press Fund to finance the *Miner*’s legal defence. W.H. Doonan wrote that “eleventwelfths of the people of Charters towers look upon the persecutors of the *Northern Miner* as their persecutors also.”<sup>43</sup> To judge from the response, his estimate was accurate. At the public meeting, Coates told the crowd that “O’Kane had fought a long time for the miners and it was time they should fight for him.”<sup>44</sup> At no time during his 18 years on the field was O’Kane’s public approval higher. He contented himself with printing every expression of support, and running a conspicuously black-bordered notice headed “R.I.P.” announcing that the *Northern Miner* had been gagged, and the liberty of the press on Charters Towers destroyed.

In fact his submission was only partial, for on 15 June he published a leader containing a swingeing attack on a verdict by Sellheim in a mining accident case. It prompted the lawyers Milford and Morgan to apply to the same court to have O’Kane’s recognisance estreated, Milford gong so far as to allege that O’Kane was “a lunatic, and the only fit place for him was an asylum.” since an appeal against the original order was in train, Sellheim wisely refused the application.<sup>45</sup> The same issue reported that the Full Court in Brisbane had granted a *nisi* on an application by O’Kane for prohibition. Griffith, for O’Kane, commented acidly that “it was a great discovery made in the northern part of the colony that a J.P. could restrain a newspaper by requiring the proprietor to enter into sureties for his good behaviour.”<sup>46</sup>

The Australian press was less restrained and enthusiastically quoted by the *Miner*. The *Cooktown Herald* opened the chorus: “However unscrupulously savage O’Kane may have been in attacking Morgan and his men, the revenge of having him gagged under a musty Plantagenet law is contemptible.” while the *Sydney Echo* described the offending Bench as “these magistrates of an out-of-the-world mining township.”<sup>47</sup> It fell to the *Bulletin* to defend O’Kane in terms that matched his personal best. After quoting from the *Sydney Morning Herald*: “indeed, it should rather be said that he has slashed

around with a tomahawk, caring little where his blows fell or whom he wounded, but on the whole he has decidedly wrought for good and purified the community in which he has laboured.” The *Herald* made some pungent remarks on judges in the north but the *Bulletin* editor went far beyond these mild strictures and expatiated on the peculiarities of tropical Queensland:

North Queensland is the Alsatia of Australia, the Government officers, many of whom get more money weekly in the way of bribe than they receive monthly from the treasury are, 50% of them, chronically drunk. Alcoholisation is the normal state of about half those people who live in the outside towns, where an honest woman is rarely seen, and where the unpaid magistracy are usually in league with the local lawyers, and are recruited from the ranks of low shanty keepers who, commencing business with the proceeds of the infamy of their paramours, practically adjudicate on their own cases, and openly rob everyone who can't lay 'em down. It sometimes happens, as in our own back settlements, that such creatures acquire an interest in the newspaper, and strangle in its inception every effort to bring the right side up. It maddens these people, and they are powerful and wealthy in the Far North, to see that a white man like the game old Thadeus can live in spite of them.<sup>48</sup>

O’Kane had the rare privilege of chiding another journal for editorial excess and stated that “The *Bulletin* should not lay it on so thick. Indiscriminate mud-throwing is not effective.”<sup>49</sup>

On 7 September the Full Court made absolute the *nisi* for the prohibition order sought by O’Kane. The judgment, in part, stated:

Looking at all the circumstances .. we give the defendant O’Kane no costs, and considering the difficult nature of the questions for decision and believing that the justices and Morgan *bona fide* thought there was jurisdiction to deal with the case, we restrain the applicants from commencing any proceedings against the magistrates or Morgan in respect of the proceedings.<sup>50</sup>

If the triumph in the Full Court was somewhat pyrrhic, it was the only flaw in an otherwise satisfactory vindication of his stance since he had assumed control of the *Miner*. He had become a national figure and henceforth would be a byword of journalistic independence.

The victory nullified Morgan’s strategy. Milford’s action was not pursued.<sup>51</sup> Deane’s libel suit won him one farthing damages and Hamilton’s prosecution for criminal libel failed when the Crown Prosecutor found no true bill.<sup>52</sup> Morgan’s suit for libel on various occasions won him £150 in damages, but very little joy, for Marsland for the defence elicited the truth about the “vidder”. Sellheim and Charters were called as witnesses for the plaintiff. Sellheim confirmed under cross-examination that Morgan had fought the celebrated action over the Day Dawn with a promise that if he won he was to have a share in the mine, which the cautious Welshman had secured by deed.

This was damaging enough, but it was in his cross-examination of his fellow lawyer that Marsland proved beyond doubt that the professional relationship in law was that of the solitary predator, rather than the pack animal. O’Kane zestfully printed the admissions wrung from his enemy.

The allegations concerning the heinous professional crime of fighting cases against the Day Dawn for a share of the winnings were another matter; Morgan declined to answer unless justification was pleaded. Marsland enjoyed a few shrew thrusts on the question of Morgan’s legal qualifications to round off his neat demolition of his rival for leadership of the Charters Towers legal fraternity. It was the most rewarding £150 O’Kane ever had to pay.<sup>53</sup>

Having established Morgan as a shyster, a womaniser and of doubtful professional provenance, it remained to Thadeus only to revert once more to the antics of Morgan’s bulldog,<sup>54</sup> before his opponent left the battlefield. Morgan sailed in March for England aboard the *Doranda*, expenses paid by “one or two credulous individuals here and in Townsville”, to secure the Holloway patent rights for pyrites treatment, and Charters Towers knew him no more.<sup>55</sup> Rumours filtered back over the years, of a gold mine in Wales.<sup>56</sup>

In 1899, by then a member of parliament, Morgan fell under the sway of another widow, Tsu H’sui, the Dowager Empress of China, who summoned him by telegram to be her ‘unofficial mining advisor’ at the Court of Peking. A company in which Morgan was involved, held concessions in the province of Szechuan. He took out a large staff of geologists to survey the province. Robert Logan Jack resigned as Queensland Government Geologist to head the survey which was interrupted by the Boxer Rebellion, forcing the team to make an arduous escape to Burma across the “Hump” in the Himalayas.<sup>57</sup> Morgan lost his seat in the Commons to Keir Hardie in 1904.

#### ENDNOTES

1. The matter formed one of the points on which Jardine severely censured Charters. Letter Jardine to Charters 7 November 1872, file 1873/999, WOR/A62, Queensland State Archives.
2. *Queenslander* 25 April 1874.
3. *Northern Advocate* 16 September 1876; *Northern Miner* 9 September 1876.
4. Michael Drew, “Queensland Mining Statutes 1859-1930” in *North Queensland Mining History*, Volume 1 page 129.
5. James Manion, *Paper Power in North Queensland* (Townsville, N.Q. Newspaper Company, 1982) p156. Manion is irritatingly imprecise, following the scholastic layout without much scholastic method.
6. *Northern Advocate*, leader, 12 February 1876.
7. *Northern Miner*, leader, 22 April 1876.
8. *Northern Advocate* 3 June 1876.
9. *ibid* 20 October, 4 November 1876.



10. *Northern Miner* 24 January 1882.
11. See, e.g. *Northern Miner* 22 July 1876; 20, 23, 30 May 1882.
12. *Northern Miner* 20 October 1888.
13. *ibid* 13 May 1882; Philip Mennell: *The Dictionary of Australasian Biography*, London, 1892.
14. *Bulletin* (Sydney) 24 June 1882.
15. *ibid* 9 October 1880.
16. *Northern Miner* 21 February 1882.
17. Spencer-Browne, *A Journalist's Memories* (Brisbane, Read, 1927) p17. Daisy Bates wrote a woefully inaccurate memoir, *Australasian* 6 September 1923.
18. *Northern Miner* 14 July 1922.
19. Manion op.cit. p209.
20. Queensland Parliament, *Votes and Proceedings* 1874,1,594.
21. *ibid*. Enclosure in No.10, 23 January 1874 and No.7.
22. *Queenslander* 27 March 1875.
23. *Northern Miner* 28 August 1875, advertisement.
24. *ibid* 8 March 1876.
25. Ron Kirkpatrick, *Sworn to no master* (Toowoomba, Darling Downs Institute Press, 1984) p.79 and Manion op.cit. p209 disagree as to the date. *Towers Herald* 14 December 1878.
26. *Northern Miner* 4 June 1879.
27. *ibid* 17 June 1880.
28. *ibid* 13 July 1880.
29. *Bulletin* 11 June 1881.
30. *Northern Miner* 12 January 1881.
31. *ibid* 1 February 1881.
32. *ibid* 31 March 1881.
33. *ibid* 26 March 1881; *Bulletin* 7 May 1881.
34. *Northern Miner* 25 June 1881.
35. *ibid* 5 July 1881.
36. *ibid* 9 November 1880.
37. *ibid* 10 December 1881.
38. *ibid* 9 February 1882 and leader, 23 February 1882.
39. *ibid* 30 March 1882.
40. *ibid* 4 April 1882.
41. See, e.g. *Northern Miner* 23 February, 16 and 18 March 1882.
42. *Northern Miner* 9 May 1882.
43. *ibid* 11 May 1882.
44. *ibid*.
45. *ibid* 16 May 1882.
46. *ibid* 18 May 1882, letter 20 May 1882.
47. *ibid* 30 May 1882.
48. *ibid* 17 June 1882.
49. *ibid* 22 June 1882.
50. *ibid* 1 July 1882.
51. *ibid* 4 July 1882.
52. *ibid* 6 July 1882.
53. *ibid* 14 September 1882.
54. *ibid* 24 October 1882.
55. *ibid* 2 November 1882, 28 October 1882.
56. *ibid* 28 November 1882.
57. *ibid* 13 February 1883.
58. *ibid* 8 March 1883.
59. *Northern Mining Register* 25 July 1891.
60. Dorothy Hill, *Proceedings Royal Society of Queensland*, LVIII, No.1, p113.