

## LOCAL NEWS.

FROM THURSDAY'S DAILY, OCT. 1.

**U. S. vs. Edward Brain.**—This case was taken up after the arraignment of Mr. Miner, and the list of witnesses called, there being a number of absentees.

**Prostitutes Fined.**—Yesterday afternoon eighteen inmates and proprietors of houses of prostitution were arrested and fined in various sums from \$25 to \$90 each. That these arraignments do not occur more frequently, and that the law against prostitution is not so rigidly enforced as to greatly lessen if not entirely abolish the evil in this city, is a shame and a disgrace upon the municipal officers. We can think of no sufficient reason for the laxity that has been displayed in this matter during the past few years—a laxity that has almost if not quite justified the imputation that the fines occasionally assessed against the fallen women, who ply their iniquitous vocation with all the boldness that a legitimate business would warrant, amount simply to a license, and that no real effort is made to stop the vile business.

One thing we are sure of, and that is, the mass of the citizens do not approve of such a policy, and if the city officers continue to deal with such a slack hand with the evils which threaten the demoralization of the community, they will awaken some day to the fact that they cannot receive the support of their constituents. The fair fame of our city, the preservation of good morals and the voice of the people demand that the law be enforced and iniquity suppressed.

We hope the raid inaugurated yesterday is but the commencement of a more vigorous policy which is to be pursued in this matter hereafter.

## JOHN DAYNES

FALLS BY THE WAY AND IS GATHERED IN.

HE THOUGHT HE WAS RIGHT, BUT AGREES TO DO WRONG.

Mr. John Daynes, whose case was set for trial to-morrow, appeared in the Third District Court this morning, accompanied by his attorney, Mr. Darke.

Mr. S. W. Darke addressed the Court as follows: If the Court please: In the case of the United States against John Daynes, the defendant heretofore entered a plea of not guilty. He is in court now and desires to withdraw that plea.

The Court—Do you wish to withdraw your plea of not guilty?

Mr. Daynes—Yes, sir.

The clerk then stated to Mr. Daynes the purport of the indictment, and in answer to the question—"What is your plea to this indictment?"—he replied, "guilty."

Mr. Darke—The defendant has handed to me a written statement, and with your Honor's permission I will read it. The Court nodded assent, and Mr. Darke proceeded to read the document, as follows:

"I most respectfully submit to the Court that I am a member of the Church of Jesus Christ of Latter-day Saints. From the teachings of the Church and from my reading of the Holy Bible, I was and am of the opinion that polygamy is as justifiable in the sight of God as monogamy, and consequently married a plurality of wives. I believed that the laws passed by Congress against polygamy would be declared null and void when tested in the courts of appeal. I have watched the progress of cases in the courts, and now, seeing that the Edmunds law is ruled upon in the court of last resort as being constitutional, I feel it to be my duty as a citizen to submit to the inevitable, and obey the law as interpreted by the courts of my adopted country.

I have at this time a large family dependent upon me for support, and feel it to be my duty still to protect and care for them, and as all I can earn these dull times is not more than sufficient to support them properly, I ask the Court to deal as leniently as possible with me under the circumstances.

JOHN DAYNES.

The Court—Mr. Daynes, I understand you to say that your intention is to obey the law of the United States against polygamy and unlawful cohabitation in the future?

Mr. Daynes—Yes, sir.

Court—And you further promise that you will not advise others to violate that law?

Daynes—Yes, sir.

Court—You state that you will not.

Daynes—I will not.

Court—I understand from your statement that you are a man of little means.

Daynes—Yes, sir.

Court—What are your means of support?

Daynes—I have a business on Main Street, but business has been very dull.

Court—Well, how much are you worth?

Daynes—I could not say; I could not say whether I have anything or nothing—I do not know.

Court—What is your income annually? I ask this question for the purpose of fixing the amount of fine.

Daynes—I have to pay a very heavy rent—\$125 a month.

Court—Well, over and above the expenses of your business?

Daynes—I do not increase. All I know is I have just managed to get along and support my family.

Court—How much of a family have you?

Daynes—Ten.

Court—In view of the statements that you have made, Mr. Daynes, and your financial condition, I am disposed to impose a moderate fine upon you—a fine of \$150 and costs, and stand committed until fine and costs are paid—no imprisonment.

Mr. Darke—If the clerk will furnish me a statement of the costs, the fine and costs will be paid.

After a pause, Mr. Darke again arose and asked the Court if the defendant was compelled to live with either of his wives?

Court—There is no punishment imposed on a man that does not live with his lawful wife. Still it is his duty to live with his lawful wife, unless for some justifiable cause he lives separate and apart from her. It is a man's duty to live with his lawful wife and to support her and support her children, and with nobody else. The Edmunds law imposes no punishment upon a man who does not commit the offenses defined in that law, which are polygamy and unlawful cohabitation with more than one woman.

Mr. Daynes then left the court room.

## THE ROSSITER TRIAL.

THE USUAL VERDICT OF "GUILTY."

Wm. Crabtree, the first witness called by the prosecution after the empanelling of the jury yesterday afternoon, testified that Eliza Crabtree Rossiter was his sister, and the wife of William Rossiter; they had seven children, the youngest about three years of age. Witness had visited his sister's house one or twice a week during the past two years; had dined there with the family about six months ago; the defendant was there. Had heard of Myra Young, but had not met her for many years. Never visited the Bee Hive house, or heard of Myra Young Rossiter; never saw her at defendant's house, nor heard him speak of her. Witness' sister's children were defendant's children. Phebe Rossiter was defendant's daughter, and was married to Mr. Baddeley. The defendant was living with his wife, witness' sister.

Cross-examined by Judge Harkness—Had been at the defendant's house in the evening, when he was not there; defendant was employed at the Theatre.

Mrs. Phebe Baddeley was next called. Her mother was Mrs. Eliza Rossiter; the defendant was her father. She left home on Sep. 12. Her youngest brother would be three years old in October. Her father had lived at home the greater portion of the time during the last two or three years; did not remember what proportion. He was sometimes away at nights. Witness did not know Myra Young Rossiter, and had never heard of her. Had heard of Myra Young, but had never heard defendant speak of her.

Charles S. Burton testified that he had known Myra Young for ten or twelve years, and defendant about the same time; had often visited the Bee Hive house. Had never heard Myra Young called Mrs. Rossiter. Had seen defendant and Mrs. Young together, but not at meals or at night; had seen Myra Young with a child seventeen years old, and one two years old. Never heard Mr. Rossiter speak of Myra Young as holding any relation to him. The defendant and Myra Young had both had dealings at the store, but never knew of the defendant paying Myra's bills. Had heard that Myra Young was defendant's wife; did not know by what name the little boy was known.

Cross-examined by Judge Harkness Had seen defendant at the Bee Hive house; knew his business called him there. Never saw Myra and the defendant going to the Theatre together.

Re-direct—Never saw them in the store together; never saw defendant's picture in Myra Young's room, and did not know where she was now.

Henry Snell was Myra Young's brother-in-law; he never heard her called by the name of Rossiter, had seen half a dozen children with her; last saw her about eight months ago.

Mrs. Chas. S. Burton was Myra Young's sister. Did not know whether Myra was married or not; had heard that she was married to Mr. Rossiter; she had one child, Russell; did not know its other name; did not know whether defendant was its father; did not know where Myra was.

Mrs. J. D. Spencer was also Myra Young's sister. Did not know whether or not Myra was married; had heard it reported that she was married to Mr. Rossiter; Russell was her child, and Mr. Rossiter was the reputed father; had seen defendant at her sister's house, at meals, at the head of the table. Russell was four years old. Did not know where Myra was; it was understood she had gone away.

Cross-examined—Mr. Rossiter was very often in the house; had not seen him eating at her sister's more than twice.

Re-direct—They were reputed to be living as husband and wife.

John D. Spencer had lived at the Bee Hive house for the past three years. Myra had lived there at the same time. Had understood from the family that Mr. Rossiter was living with Myra as Mrs. Rossiter. They had been living there as reputed husband and wife for the past two and a half years. The child Russell lived there; Myra was its reputed mother and defendant its reputed father. Had never

seen Mr. Rossiter there. The child was known as Russell Rossiter; had seen him with Mr. Rossiter; did not hear him call defendant father, or defendant say Russell was his child.

Cross-examined—Had derived his knowledge that Mr. Rossiter's home was at the Bee Hive from seeing him there, and the general understanding; had frequently seen him eating there. Did not know of any business to call him there. Understood that he was collector for the Brigham Young estate. Had never heard anyone say he lived there; this was rather a conclusion of his mind.

Re-direct—Had never heard defendant in the house when he did not see him. Understood from general observation and their general demeanor that the defendant and Myra were husband and wife.

Eva Davis testified that Myra Young was her sister; she occupied part of the Bee Hive House; had seen Mr. Rossiter there; Myra was reputed to be his wife, and they were reputed to occupy the house as husband and wife. Presumed the child's name to be Russell Rossiter. Never saw the defendant in Myra's bedroom, and had not seen the child for several months.

Cross-examined—Last saw Mr. Rossiter at the house at an evening gathering. Could not remember who told of the marriage or the living together, it was rather a conclusion of her own. Mr. Rossiter had business at all the houses, and called at them frequently.

The Court then adjourned until 10 o'clock this morning, the jury being placed in charge of a bailiff.

At 10 a.m. to-day, after some preliminary business had been disposed of, the prosecution proceeded with the case of W. A. Rossiter, continued from yesterday.

Alfalfa Young was the first witness called to the stand, his testimony being substantially as follows: I know the defendant and Myra Young, the latter from childhood; she is my sister. She has been living in an addition to the Bee Hive house, and I have frequently visited there. Think I know she is married; that is, she is the reputed wife of defendant; have seen him at her residence frequently, not in the morning, but at meal times with Myra. Defendant presided at table as host and my sister as matron. She has a child a little over three years old, and Rossiter is its reputed father.

Q.—Does he live there part of the time?

Objected to by Judge Harkness, for the purpose of calling the Court's attention to the fact that the defense would move to strike out this and all similar evidence.

Witness continued in response to another question—Myra and the child bear the name of Rossiter.

Cross-examined—Remember the marriage of Mrs. J. D. Spencer; was at the reception; don't remember seeing the child there; it was two or three years ago that I moved from the house, and the child was then an infant.

Spencer Clawson testified: I know Rossiter and have known Myra since she was a child. My wife is her sister. Have visited her and seen Rossiter there more than once. Have been there by his invitation at dinner parties, which occurred at 3 p.m. Myra is known as Mrs. Rossiter, and I understood she was married to him. He has been in my house when she was there, but don't know that he went away with her; have not seen them in company elsewhere. Never heard him speak of her as his wife or introduce her as such. Have seen them conversing together; may have seen the child with them.

Cross-examined.—Have known defendant for fifteen years. He was secretary and collector for President Young; has been and is agent for the executors and heirs, and this requires him sometimes to visit their houses. Myra is one of the heirs. Sometimes defendant eats at these places.

J. D. Spencer was recalled, but nothing important was elicited.

Judge Harkness at this point arose to enter his motion to strike out the parts of the evidence previously referred to, proceeding to define the scope and intent of the Edmunds law, hoping that the Court would charge the jury that they must find, from the evidence, that the two alleged families lived in the same house to convict. He did not object to evidence as to marriage being put in the form of reputation, but did object to proof of living together as man and wife being established in that way.

The Court will be compelled to instruct that no matter if Rossiter announced to the world that Myra was his wife, it would be unavailing if it was shown that his presence in her house was only in the nature of visits, to provide for her wants and look after her affairs. Social or business calls are not sufficient; actual cohabitation must be shown and there is no authority justifying mere reputation being carried to this extent. Reputation may be admitted in connection with acts and declarations of marriage, but when the gist of the offense is that they are not only married but have lived together, the latter must be shown by something stronger than presumptions growing out of reputation.

Judge Kirkpatrick followed in support of his associate's proposition, claiming that the points sought to be established must not come from the unsworn testimony of third parties, but from witnesses to the acts themselves. Dwelling together as well as holding out must be shown, and this is susceptible of direct proof,

which is presumed to be attainable. The principle is clear that evidence by reputation is inadmissible and beyond the limit set by any court. A number of authorities were cited.

Judge Harkness explained to the Court that the objection was not to admitting reputation as evidence of the relationship between the defendant and Myra Young, but of their dwelling together at the place indicated.

Mr. Varian argued that the testimony should be admitted to show how the association of the defendant and Myra Young was regarded by members of the family.

The court overruled the motion and admitted the testimony as competent for the purpose of showing the relationship, but incompetent to show a dwelling together.

The prosecution rested their case here, and the defense announced that they had no testimony to offer.

Mr. Varian then addressed the jury, holding that the offense of cohabitation was proved when it was shown that a man had lived with more than one woman as wives, during the time stated in the indictment, whether for one year, one month or one day, and it was not necessary to show any particular time of day. The general reputation was that both women were defendant's wives, and the relationship had not been denied. They had lived together before the Edmunds law passed, and it was not probable that they had separated. If the defendant had ceased to live with Myra Young at the passage of the Edmunds law, that fact should be proved in explanation. This might be explained by Myra Young.

The defense here objected to the implication that the defendant was to be held responsible for the absence of witnesses.

The court held that the absence of witnesses might be referred to only to explain why the prosecution had not produced them.

Mr. Varian continued his argument, contending that the defendant maintained and acknowledged Myra Young as his wife, and was reputed to have lived with her as such.

The Court took a recess until 2 p.m.

This afternoon Mr. Varian made an argument in favor of his right to follow the line of argument which had been objected to by the defense, and asked the Court to instruct the jury to that effect.

Mr. Kirkpatrick, in behalf of the defense, said that the request of Mr. Varian was an ingenious attempt to shift the burden of proof upon the defendant. It had been shown by the evidence that the relationship of marriage existed; this relationship the defendant had never denied. But there had been no evidence to prove cohabitation. Visits had been shown, and the Court had said that it was the right and duty of a man to provide for and support his family. No dwelling together had been shown, and this was the central figure of cohabitation.

Judge Harkness, for the defense, addressed the jury. The indictment had charged cohabitation in the marriage relation. The defendant did not deny the fact of the marriage, but pleaded not guilty to the other element. He would not allow his attorneys to deny the marriage or the fact that Russell Rossiter was his child and had been legitimized by the Edmunds law. That law did not require the defendant to declare that the child's mother was not his wife, and it was his moral duty to support them both. The law, however, forbade a dwelling together, but did not prohibit visiting or providing for the family. The question at issue, then, was whether or not there had been a living together during the time mentioned in the indictment. There was not a particle of evidence showing a dwelling together, and the defendant had a perfect right to visit to the house.

Mr. Varian, in his closing argument, said that it was the law in this court that cohabitation could be committed in the day time, by associating together as husband and wife. Sexual commerce was not a necessary element. It was improbable that at the passage of the Edmunds law the defendant had changed his habits; it was contrary to human nature. The inference was that the defendant knew nothing and cared less for the Edmunds law. There had been no public act indicating that the relations had been discontinued. The defendant had not, in court or out of court, evidenced any separation, and in the absence of such act, the inference was that they were living in the marriage relation. The evidence showed that they were reputed to be associating as husband and wife. The defendant could go into court and have his unlawful marriage annulled, to cut off the inference of fact, and separate from his plural wives, as verified by the record of the court.

Mr. Kirkpatrick asked if he would be understood as claiming such a course necessary.

Mr. Varian answered, No; but if he did not, society would require him to be very guarded in his conduct. The visits of the defendant were to carry the inference that the association was continued, or they should have an explanation, without which it was evident there had only been an attempt to conceal the association. This conduct had been in the relation of husband and wife, to the scandal of society. If there was any one who should be interested in clearing the defendant, it was Myra Young, who was absent.

The Court then charged the jury that if they believed, beyond a reasonable doubt, that the defendant lived with

both wives, in the habit and repute of marriage, they should find him guilty. It was not necessary to believe that there had been sexual intercourse, that they had occupied the same bed, or that he had remained over night. If they believed the defendant cohabited with Eliza C. Rossiter, he would have the right to visit Myra Young, but not as his wife, or to remain under circumstances that would indicate that she was his wife. He could not take meals or associate so as to show to the world that the relationship of husband and wife existed. The jury were judges of the credibility of witnesses, and should consider the evidence impartially, and draw such conclusions as the evidence warranted.

At half-past three the jury retired to their room.

After being out twenty-five minutes, the jury returned, and reported a verdict of "Guilty as charged in the indictment."

Nine days were allowed before the passing of sentence, which will be pronounced on Saturday, October 10.

## CAPTURE OF A HORSE THIEF.

PRICE, Emery Co., Utah, Sept. 29th, 1885.

Editor Deseret News.

Our quiet little burg was last Thursday aroused from its usual peaceable situation, by a party who were traveling through the country on their way to Oregon, who came to town and reported that a horse had been stolen the day previous from their camp about thirty-five miles east from here. The owner of the horse was anxious to get his animal back, and while speaking to a crowd of people present, he offered the liberal reward of \$150 for the capture of the thief and the return of the horse.

Our respected townsman and farmer, Charles Johnson, who is of a very quiet disposition, and never says a great deal, after a moment's consideration remarked, "I guess I will take your \$150." He was soon authorized as "deputy constable by the proper authority," and shortly after his gigantic form was seen on a horse, slowly making his way out of town in a southerly direction, as though he was taking a ride for the benefit of his health.

It is a general custom among such officers of the law, when going after a desperado, to arm themselves to the teeth, but it was different with friend Johnson; he went on his way without any weapons of any kind, relying upon his physical strength, of which a wise providence has meted out to him an abundance. He traveled through Huntington, Castle Dale and Ferron Creek, and by inquiring found that his man was only a short distance ahead of him. He traveled along and arrived at a place called Muddy, 70 miles from here about two o'clock at night, where he happened to see by moonlight the horse in question, tied to a corral fence. Our deputy concluded to camp by the same corral, so he took the saddle off his horse and sitting coolly down called in his wandering thoughts, and reflected on past, present and future. A moment after he noticed some bedding close to the house, and supposing somebody slept there he paid some little attention to the moving of the quilts.

About daybreak on Friday morning the man in the bedding had perhaps had sleep enough, and commenced moving about in the quilts uncovering his face, to see if the sky was free from clouds, but suddenly a voice from our unarmed deputy came like a rushing of many waters. Arms up, young man! And although the thief had a heavy six-shooter at his side, the command given by Mr. Johnson was promptly obeyed.

The man in authority told his prisoner that he guessed they would both return to Price, as he thought they had a little urgent business to attend to in Squire McIntire's office, to which the prisoner consented, and on their return they started: but, lo and behold! on the road, between Muddy and Ferron creek, the prisoner snatched from Johnson the six-shooter, which the deputy had taken from him and was carrying himself, and attempted to escape. But the officer grappled with him, got hold of the weapon and after it had been once discharged without doing harm to either of them, and after a fall to the ground the prisoner again mounted. Very little was said, but Johnson told him kindly, if he made another attempt like that, he would get hurt. Nothing happened to mar their peace during the balance of the journey, and they arrived safe at Price yesterday (Sunday) afternoon.

This morning at nine o'clock the prisoner whose name is George Wright, was brought into the justices court, where he pleaded guilty to the two charges preferred against him—grand larceny, and attempt to disarm an officer and judge E. W. McIntire bound him over in the sum of \$1,000 to appear before the grand jury in the First Judicial District at Provo. The bond not being furnished the deputy will tomorrow take his man to Provo.

Our Agent, R. G. Lambert of the Business Department of this Office, will be found at the Fourth Ward Co-op Store, Main Street, Logan, Utah, during Conference, where he will receive subscriptions for the Daily, Semi-Weekly and Weekly News, orders for the Standard Works of the Church and all kinds of Print and Wrapper Paper. We commend him to the kind attention of our friends.