

THE DESERET NEWS.

TRUTH AND LIBERTY

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DESERET NEWS:

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TERMS IN ADVANCE.

OFFICE—Corner South and East Temple Sts.

LOCAL NEWS.

FROM TUESDAY'S DAILY. OCT. 21.

Departing Missionaries.—Elders George S. Taylor, bound for New Zealand, Robert B. T. Taylor and Hyrum S. Harris, destined for the Sandwich Islands, with a number of others, will leave for San Francisco, from which port they will sail, by this afternoon's 4.30 train over the Utah Central.

Time for Activity.—Two weeks from to-day the election for Delegate to Congress from Utah will take place. If the several county committees of the People's Party are not astir and making all necessary preparations to have the election go off with vim, and to guard the interests of the people zealously, it is time they were. We trust they will work earnestly to that end from this time forward. All hands should work to secure a full vote.

Y. L. M. I. A. Anniversary.—The thirteenth anniversary of the Young Ladies' Mutual Improvement Association of the Eleventh Ward, was duly celebrated at the Ward meeting house last evening. A sumptuous feast was spread at six o'clock, and a numerous though select company sat down to partake of its bounties. A nice and varied programme was then carried out by the following named young ladies: Gertrude Sampson, Lizzie Leaker, Drusie Hedger, Eveline Tuckett, Edith Sampson, Maggie Freeze and Cecilia Coulam, and addresses were given by several of the visitors. The proceedings were conducted by Sister Mary A. Freeze, president of the association. Among the visitors and those who addressed the assembly were the Presidency of the Stake, Bishop A. McRae, and Sisters Cannon, E. B. Wells, H. M. Whitney, Nellie Colebrook, and Mattie H. Tingey. Altogether it was a very pleasant occasion, which all present will long remember.

FROM WEDNESDAY'S DAILY, OCT. 22.

Missionaries in Canada.—A letter to Elder E. Stevenson, of this city, from Elders Joseph Spendlove and R. R. Fry, laboring in Canada, dated Glenbecker P. O., Dundas Co., Ont., October 15th, says: "After leaving you in London, Ontario, the beginning of June last, we proceeded to Dundas County 350 miles east of London, and footed it through the county holding 37 meetings in town halls, schoolhouses and wherever we could; in some places we were pretty well received and had 200 people to attend our meetings. At Winchester Springs, a Methodist preacher who failed to make Bible points, after two hours effort, proceeded to break up our meeting. As a reward of our toils and labors without purse or scrip, we have received rotten eggs and shameful abuse, often having to sleep in hay-stacks, barns and school-houses, and receiving threats of tar and feathers and of being kicked into the St. Lawrence River. We had the consolation of reading St. Paul's persecutions while preaching the same Gospel, everywhere evil spoken of, and we are consoled with the knowledge that we have preached the pure principles of truth, if they do come in contact with the doctrines of men."

To-morrow, the 16th inst., we intend leaving Canada for New York, where we expect to join the Elders from Utah on our way to England. It will be remembered by many that in the early times of the Church many were gathered by the Gospel net in those parts, some of whom are now in our county; the Becksteads are good, worthy citizens. One year ago last April, Elder G. W. Beckstead desired to visit his relatives in the county above mentioned, and through his suggestion Elders E. Stevenson and others have labored, hiring halls, publishing tracts, etc., with the above results. At all events, many have been

made acquainted with our doctrines, some of whom have stated they will yet see Utah and learn further of our ways.

THE CLAWSON CASE.

JUDGE ZANE'S CHARGE TO THE JURY.—THEY FAIL TO AGREE AND ARE DISCHARGED—LYDIA SPENCER FOUND AND SUBPOENAED—ANOTHER TRIAL ORDERED.

We are enabled to present to our readers to-day, the full text of Judge Zane's charge to the jury in the Clawson case, which we were unable to do yesterday on account of the original being given to the jury as soon as it was delivered, and other arrangements for reporting it having fallen through, but by no fault of ours. It was a written charge, and read as follows:

Gentlemen of the Jury:

The Court charges you that the laws of the United States of America in force in this Territory, declare that every person who has a wife living and marries another, is guilty of polygamy, and that the first count of the indictment upon which the defendant stands charged, states that on the first day of August, 1882, he married Florence Ann Dinwoodey, with whom he is still living as his wife, and from whom he has not been divorced; and that afterwards and on the first day of July, 1883, he married Lydia Spencer, in the Third Judicial District of the Territory of Utah. To this count the defendant has pleaded not guilty. The court further charges you that the law presumes the defendant innocent until he is proven guilty beyond a reasonable doubt. It is not necessary that the evidence should show that the marriages charged actually occurred on the days therein named. There is no dispute in the evidence with respect to the marriage of the defendant to Florence Ann Dinwoodey, and the real contention is as to the charge that he married Lydia Spencer, and that such marriage was in this judicial district. To prove this marriage admissions of the defendant and circumstances are relied upon. The court further charges you that admissions and declarations of the defendant hastily made are entitled to but little weight, but when deliberately made and precisely identified, they should receive great weight. You should not look at the circumstances in evidence separately, but should consider them with respect to the fact to be proven, and with respect to each other, and should endeavor to discern their connections, their coincidences and their disagreements, if such they may present, and so considering them together, give them such weight as in your best judgment they may be entitled to. If you can reconcile the evidence before you upon any reasonable hypothesis consistent with the innocence of the defendant, it is your duty to do so.

With respect to the second count of the indictment, the court instructs you to find the defendant not guilty on that count. The court further charges you that a reasonable doubt is one based upon reason, and such doubt must be reasonable in view of all the evidence. And if, after an impartial and careful consideration of all the evidence in this case, you can candidly say you are not satisfied of the existence of any fact essential to the defendant's guilt, you have a reasonable doubt, in that case you should find the defendant not guilty upon the first count of the indictment also. But if, after a candid and careful consideration of all the evidence, you have such an abiding conviction of the defendant's guilt that you would be willing to act upon it in the more weighty matters relating to your own affairs, you have no reasonable doubt, and if you should be so satisfied of the defendant's guilt, you should find him guilty.

Gentlemen, you are the sole judges of the credibility of the witnesses, of the weight of the evidence and of the facts. You should diligently investigate and carefully consider all the evidence before you together, and give it such weight as you may believe it entitled to when so considered. But if you shall believe that any witness or witnessess have wilfully sworn falsely to any fact material in this case, you are at liberty to wholly disregard the testimony of such witness or witnessess, except so far as they may be corroborated by other trustworthy evidence.

The Court charges you with respect to the form of your verdict, that if you find the defendant guilty of polygamy, as charged in the first count of the indictment, the form of your verdict will be, "The jury find the defendant guilty on the first count of the indictment."

If you find the defendant not guilty on the first count of the indictment, the form of your verdict will be, "The jury find the defendant not guilty."

It was stated last evening that at the hour of going to press no verdict had been returned. At 5 o'clock the

Court ordered a recess taken until eight, and on reopening at that time, an hour and fifteen minutes wore away and still no word had come from the jury room, except that twice since five o'clock the Judge had received notice from its twelve occupants that they were unable to agree and asking to be discharged.

The Judge now called the court order and sent for the jury. They entered the presence jaded and care-worn, and in response to Judge Zane's question as to whether they had agreed upon a verdict, Major Wilkes, the foreman, responded in the negative. He also answered a second question to the effect that there was no prospect of an agreement being reached, and the rest of the jurors assented to it. Mr. Dickson then asked how the jury were divided. Major Wilkes answered that eight were for conviction and four for acquittal. As this reply seemed in one sense to satisfy the Prosecuting Attorney, the Judge told the jury they were discharged. They had been out eleven hours lacking ten minutes.

It has leaked out that a fight occurred in the jury room between two of the jurors on account of one who was in favor of conviction insulting one who was for acquittal, assigning a base motive for his inclination. The insulted man called his traducer a liar, and they clinched, and had to be separated by the bailiffs. The names of those who stood out for acquittal were James F. Woodman, E. W. Loder, D. W. Scribner and G. M. Forbes. Those who decided in favor of conviction were Edmund Wilkes, Thomas Sampson, M. W. Davis, D. C. Booth, George W. Richmond, Charles Gilmore, William Husbands and Ellsworth Daggett.

Shortly after the court-room was cleared, Deputy Marshal Greenman presented himself at the residence of Bishop H. B. Clawson in the Twelfth Ward, and requested to see Mrs. Margaret G. Clawson, mother of Rudger Clawson the defendant. Bishop Clawson asked him what he wanted of her, and the officer replied that he wanted to serve her with a subpoena. The Bishop stated that he did not know where she was. "Well, I wish to search the house," said the deputy. "You can't search my house, unless you have the papers authorizing you to do so," answered the Bishop. As the officer did not have a search warrant, or at least did not produce it, he resorted to the good-natured threat that "we'll get her anyhow." "Get her if you can," replied the Bishop, "but you must come here with proper authority before you search these premises." Deputy Greenman then took his leave.

At about the same time, the house of Mrs. Smith, where Lydia Spencer had rooms, opposite the north-west corner of the Temple Block, was beset by deputy marshals, dodging from behind every tree in the vicinity. One or more of them went to the door, and on its being opened, a subpoena was served on Lydia herself who was found within. The lady was notified to appear before the District Court at 10 o'clock this morning.

As soon as it was known she was in the court-room this morning, Mr. Varian, Assistant U. S. Attorney, jumped to his feet and informed the Court that one of the important witnesses wanted by the prosecution during the late trial, but who had been missing, was now accessible, and moved that a new trial of the case of the United States vs. Rudger Clawson, take place at 2 o'clock to-day. To this the defendant's counsel objected. Mr. Richards asked if the witness was in custody, and being answered in the negative, said it did not appear that she was trying to evade any process of the court, and could appear next week or next month just as well as this afternoon, and he saw no reason for such unseemly haste. Besides, he said, it would work hardship on witnesses summoned to the city from distant parts for other cases, several of which he represented, if they were compelled to return home now or to await here for this case to be disposed of. Mr. Bennett, also, stated that Mr. Harkness, who had taken an important part in preparing the defense, would be absent from the city to-day, and a postponement was therefore urged on that ground as well. But the prosecution insisted that the trial be had at two o'clock, and Judge Zane ruled in their favor.

At the opening of the Court at 2 o'clock this afternoon, an affidavit of the defendant was presented by Mr. Bennett, who moved, in behalf of the defense for a change of venue, on the following grounds:

That the defendant had reason to believe he could not have a fair and impartial trial before this Court, on account of the great prejudice and bias of the people of Salt Lake County and the Third Judicial District.

If you find the defendant not guilty on the first count of the indictment, the form of your verdict will be, "The jury find the defendant not guilty."

That the jury box containing names of jurors to act at the present term of Court, was practically exhausted, and

as a result the jury, according to the rulings and orders of this Court, would have to be made up from persons brought in on an open venue.

That the Salt Lake Daily Tribune, a paper widely circulated and very influential among non-Mormons, by its inflammatory and abusive articles during the late trial, and abuse of jurors unwilling to agree upon a verdict convicting the defendant, since the conclusion of the trial, had aroused a bitter prejudice against the defendant, who therefore had reason to believe that he could not have a fair and impartial trial in this court; and he accordingly moved for a change of venue to some other court in the Territory.

Then followed extracts from the Tribune of October 17th, 18th, 19th, in which witnesses in the Clawson case, whose testimony seemed to favor the defendant, were stigmatized as liars, perjurers, etc., while such as James E. Caine, John A. Young, whose testimony favored the prosecution, were lauded to the skies or passed with but criticism; all this during the progress of the trial and before the case had gone to the jury. Then came other extracts from the Tribune of to-day (the 22nd) in which the four jurors who stood out for acquittal, were abused and slandered for their action, and other calumnies heaped upon the defendant, Lydia Spencer and others.

The reading of the affidavit occupied nearly half an hour, at the conclusion of which, Judge Bennett made a brief but powerful argument in support of the motion for a change of venue, in which he claimed that it was impossible, in view of the prejudice awakened by the Salt Lake Tribune, which went to nearly every family household in this District, and wielded a powerful influence in molding opinion and shaping convictions for the defendant to have a fair trial in this District. He also argued against the open venue process, which would have to issue in order to obtain a jury for the trial, and showed that there was no chance, after the excitement aroused in regard to this case, to get a free-minded and unprejudiced jury. He cited in this connection the abuse heaped upon the four jurors who had conscientiously refused to agree upon a verdict of conviction, and asked where they were to get any atmosphere, who would be fearless enough, yet unbiased enough, to give this case a fair and impartial hearing. After the minutes past 3 o'clock, Mr. C. S. Varian began to reply to Mr. Bennett, and was speaking as we went to press, took his leave.

FROM THURSDAY'S DAILY, OCT. 23.

Releases and Appointments.—The following named Elders are released from their labors in this land to return to Utah with the company sailing from Liverpool Oct. 25, 1884: Presidents J. Alma Smith, of the Liverpool Conference; John A. Drane, of the Birmingham Conference; Angus McKay, of the Glasgow Conference, and William Jex of the Norwich Conference; also Elders Leo H. Clawson, of the London Conference, and George Wilson, of Ireland.

Elder John W. Thornley is appointed to preside over the Liverpool Conference; Elder Thomas Aubrey over the Birmingham Conference; Elder George Hunter over the Glasgow Conference, and Elder Edward Morgan over the Norwich Conference.

Elder Thomas P. Biggs is released to labor in the Sheffield Conference.

Bishop Maritus Ensign.—The funeral of the late Bishop Ensign, of Santa Clara, Washington County, who died October 1st, took place on the day following at that place. The services were held in the meeting house. The people turned out in mass and the greatest respect was shown by the mourning assembly. The Presidency of the Stake and others from St. George were present. Remarks were made expressive of the integrity, faithfulness and diligence of the deceased in his callings in the holy Priesthood in the various stages of his history as High Councilor as an active, unselfish and diligent officer and worker in the United Order, and subsequently a Bishop, for a number of years past, of Santa Clara. The speakers were President McAllister, Wm. Lawton, Daniel D. McArthur, Elder James Clegg, President Henry Lyng and Counselor Jacob Toloy.

It was stated that the deceased was born in Connecticut, August 18th, 1821, and moved with his parents, who were baptized into the Church in 1827, to Nauvoo, Ill., in 1834. He was himself baptized in Nauvoo in 1842, and removed to Salt Lake City in 1859. He was called on a mission to Iron County, Utah, in 1860, and remained there till called to the Southern Utah mission in 1862. He settled at Santa Clara, whence he went on a mission to England, and was absent three years and a half, returning in 1869, with a company of some brethren. He was called to the Bishopric of Santa Clara, which position he magnified till his death. Brother

Ensign passed away, faithful and true, with an unsullied record as a servant of God.

The Friends.

Mr. R. T. Bentley, a member of the estimable community of Quakers at Sandy Springs, Md., says he was severely affected by rheumatism in his right hand. Mr. Bentley applied St. Jacobs Oil, the great pain-cure, and by its continued use, in a short time was completely cured.

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