LOCAL NEWS.

FROM SATURDAY'S DAILY, OCT. 31.

A Flowing Well.—W. H. Atwood, of South Cottonwood, was fortunate in obtaining a good stream of flowing water by the driving process yesterday, when the pipe had attained a depth of 136 feet. The outflow is now ten gallons per minute, and is increasing. The water is soft and has a very pleasant taste.

The Largest Reported.—T. F. King & Sons, of Farmington, having seen various notices in the NEWS of large potatoes, write that they can discount all who have yet reported, as they have had several this year that weighed from five to six pounds each, and one that turned the scales at seven and a half pounds, good weight. It is of the Peerless variety, and was raised on their farm at Farmington.

Captured.—Orlando Wright, wanted on a charge of grand larceny, in having been associated with Andrew Petit, now awaiting the grand jury's action, in horse stealing, was arrested at Pleasant Valley yesterday, and brought to this city last night. He was arraigned before Judge Speirs this morning, for preliminary examination, and was given until Monday to plead. His bail was fixed at $800, but not being able to furnish sureties, he was committed to jail.

Court Proceedings.—In the Third District Court to-day, in the case of Wm. R. Stewart vs. Wm. Jennings et al., judgment was given for plaintiff for $350 and interest.

Julina Smith vs. James McKnight et al.; judgment for plaintiff.

Northern Chief Mining Company vs. E. H. Osman; dismissed.

In the matter of the citation of Aurelius Miner, to show cause why he should not be disbarred, M. Kirkpatrick appeared for respondent and Thos. Marshall for Bar Association; taken under advisement.

Work on the Temple.—The work of rock-laying on the Temple in this city, this season, has been confined to the east end until to-day, when, the towers being squared up, the workmen repaired to the west towers and commenced operations there. During the season sixteen courses of rock, aggregating 20 feet 8 inches in height, have been laid upon the center one of the eastern towers; and fourteen courses—18 feet—upon each of the corner towers. If the weather continues favorable, as it did last year, there will probably be about four courses laid on each of the towers at the west end before the work is abandoned for the winter.

To save trouble in shifting from one end of the building to the other, the stationary engine, for hoisting, that was formerly used on the Temple at Logan, has been brought down and placed at the west end of this Temple, so that if necessary work could now be carried on simultaneously at both ends of the building.

A Double Wedding.—A couple of marriages occurred at the Logan Temple, on Wednesday last, Oct. 28, 1885, two of the parties to which were Ortherus and Clomenia (Phelps) Pratt, son and daughter of the late Apostle Orson Pratt, and Juliette (Phelps) Pratt, the bride of the former being Miss Emma Louise Taysum, daughter of Andrew J. and Mary Ann (Mecars) Taysum, of the 20th Ward of this city, at whose residence a reception was held last evening, 30th inst, in honor of the young bride and groom. The bridegroom of Miss Clomenia Pratt is Brother Wm. Bailey, of Nephi, the son of Langley Allgood and Sarah (Andrews) Bailey, also of Nephi.

A reception in honor of both these couples will be held this evening (31st inst.) at the residence of Mrs. Juliette Pratt Crabb, 17th Ward, this city, where it is expected that a large assembly of the relatives and friends of the contracting parties will enjoy the proceedings of the occasion, as was the case at last evening's reception.

Brother William Bailey expects to start for his home at Nephi next Monday morning, to which place his new bride will accompany him, and where the prospects are favorable for another reception.

Brother and Sister Ortherus Pratt will start next Tuesday morning for Scipio, Millard County, at which place the groom will resume his duties at the store.

We wish these fortunate couples all the felicity they desire in their new estate.

HERBERT J. FOULGER

ARRESTED ON A CHARGE OF UNLAWFUL COHABITATION.

About 11 o'clock this morning Deputies Collin and Smith went to the Twentieth Ward co-operative store and served a warrant of arrest on the Superintendent, Herbert J. Foulger, who is also Counselor to Bishop Allen, of the Twenty-first Ward. Mr. Foulger was given in custody of bailiff Hurd, while the deputies started off to subpœna witnesses. The preliminary examination was set for 2 p.m. to-day, before Commissioner McKay, but the defendant was allowed to waive the investigation, and his bail placed at $1,500, Messrs. Spencer Clawson and Wm. H. Rowe becoming sureties. Four witnesses, including the alleged plural wife, were held under $200 bonds each, to appear before the grand jury on Wednesday next.

The complaint, signed by E. A. Ireland, charges that, between June 1, 1882, and Oct. 1, 1885, the defendant cohabited with "Jane Doe Hall, sometimes called Foulger, and Eliza Foulger, as his wives."

CIVIL CALENDAR.

The following setting of civil cases was made in the Third District Court this morning, for the first two weeks in November:

Monday, November 2—127 John Gagan vs. J. H. Kyner et al.; Marshall & Royle for plaintiff, Kimball & Heywood for defendant. 140 John Cunnington et al., vs. John S. Scott et al.; Woods & Hoffman for plaintiffs, Marshall & Royle for defendants.

Tuesday, Nov. 3—87 John Coulam et al. vs. Ann Doull; E. T. Sprague for plaintiffs, Sheeks & Rawlins for defendant. 184 Peter Kraller vs. James Lawrence; Woods & Hoffman for plaintiff, W. I. Snyder for defendant.

Wednesday, Nov. 4—189 Louisa Y. Ferguson vs. Leroy Decker et al.; Williams & Young for plaintiff, Geo. B. Fletcher for defendants. 194 Aaron Keysor vs. Herman Hill et al.; Sheeks & Rawlins for plaintiff, Arthur Brown for defendants. 200 Max Armer vs. C. M. Brown et al.; Marshall & Royle for plaintiff, Woods & Hoffman for defendants.

Thursday, Nov. 5—81 James Fowls vs. Wm. Palmer; J. B. Dilley for plaintiff, Arthur Brown for defendant. 92 J. C. Bowring et al. vs. W. C. Bowring; Arthur Brown for plaintiffs, Darke & Kenner for defendant. 101 J. C. Bowring vs. W. C. Bowring; Arthur Brown for plaintiff, Darke & Kenner for defendant.

Friday, Nov. 6.—196 Max Idleman et al. vs. Thomas Cupit et al.; Woods & Hoffman for plaintiffs, Hall & Marshall for defendants. 204 Rasmus Rasmussen vs. Frederick Jensen; C. O. Whittemore for plaintiff, Sheeks & Rawlins for defendant.

Saturday, Nov. 7—123 Moses W. Gray et al. vs. J. C. Bowring et al.; Hall & Marshall for plaintiffs, Arthur Brown for defendants.

Monday, Nov. 9—66 James Gordon vs. John F. Snedaker; Baskin & Van Horne for plaintiff, Sheeks & Rawlins for defendant. 41 Wm. B. Tripp vs. Louis E. Granger; S. H. Lewis & R. B. Tripp for plaintiff, Gee & Maxwell for defendant. 167 John S. Ballin & Co. vs. Simon Bamberger; Woods & Hoffman for plaintiffs, Bennett, Harkness & Kirkpatrick for defendant.

Tuesday, Nov. 10—125 J. B. Benedict vs. George W. Emerson et al.; M. M. Kaighn for plaintiff, Hoge & Burmester for defendants. 142 Geo. W. Oglesby vs. Daniel Dunne et al.; George B. Fletcher for plaintiff, Arthur Brown for defendants. 169 Causey, Harkness & Co. vs. Hower & Newcomb; M. M. Kaighn for plaintiffs, J. D. Lomax for defendants.

Wednesday, Nov. 11—141 Annette Cummings et al. vs. Brigham Young et al.; Darke & Kenner for plaintiffs, Sheeks & Rawlins for defendants. 152 F. Auerbach & Bro. vs. Robert Mulhall et al.; M. M. Kaighn for plaintiffs, Woods & Hoffman for defendants.

Thursday, Nov. 12—86 W. H. H. Bowers vs. The London Bank of Utah; Sutherland & McBride for plaintiff, Baskin & Van Horne and Marshall & Royle for defendant. 126 Louis Nadle vs. M. H. Lipman et al.; S. H. Lewis for plaintiff, E. D. Hoge for defendants.

Friday, Nov. 13—165 Nils H. Hallstrom vs. James H. Larkins; Hall & Marshall for plaintiff, Arthur Brown for defendant. 183 James M. Kennelly vs. Geo. H. Wyman; Hall & Marshall for plaintiff, Bennett, Harkness & Kirkpatrick for defendant.

THE DISBARMENT CASE.

MR. MINER REFUSES ANOTHER DEMAND OF JUDGE ZANE TO RECANT.

DISBARMENT A FOREGONE CONCLUSION.

Mr. Aurelius Miner was brought in from the penitentiary this morning for a continuation of the proceedings to show cause why he should not be disbarred from practicing as an attorney in the Third District Court, because of his refusal to promise to obey the Edmunds law, and because he had been convicted of cohabitation with his wives.

Mr. Thomas Marshall moved for the order of the Court relative to the case.

Mr. Kirkpatrick said that, having been conected with the defense of Mr. Miner, he felt under obligations to stand by him in the present issue. He had not been able to make more than a limited examination of the case, but thought there were some considerations which the court should take cognizance of. The motion for disbarment was made on two grounds: 1st—Because the defendant had been convicted of a misdemeanor alleged to involve moral turpitude; 2d—Because of the defendant's having made certain statements, regarding his promising to obey the law, at the time of passing judgment. Moral turpitude had been defined as everything done contrary to honesty, justice, modesty, integrity or good morals. The speaker remarked that as lawyers were not noted for their modesty, if the Court were to give this a strict construction, it would greatly deplete the number of members of the bar. After citing from authorities, Mr. Kirkpatrick proceeded to argue that it was only for that moral delinquency involving loss of integrity, rendering it unsafe to trust the business of the bar in his hands, for which an attorney could be disbarred on the ground of moral turpitude. There was no instance where a lawyer had been disbarred on account of sexual irregularities. Courts would not enter upon this question, because it was outside of professional conduct. It was not such moral turpitude that courts had taken into consideration in questions of disbarment. If, therefore, a lawyer could not be disbarred for adultery, it would be unprecedented to take such action because of unlawful cohabitation. There was a distinction between ordinary bigamy and the polygamy of the "Mormons," the latter practicing it as a religious requirement, without introducing any element of fraud. There was in their practice no moral turpitude. Congress had recognized this by legitimating the issue of "Mormon" polygamous marriages, and "Mormon" marriages alone. These considerations should be regarded as relevant. The cohabitation in this class of cases was not moral turpitude, but would rather be such if the plural families were deserted. Lawyers were sometimes lawless, but an instance had never been known of a disbarment for moral delinquencies fully equal to that charged against the defendant.

In reference to the other point, Mr. Miner had not declared in terms that he would not obey the law referred to, but said nothing, and cited the fugitive slave law as one he had refused to obey. It would be very slight ground to disbar an attorney because he reserved the right to hold his own opinion as to the constitutionality of a law.

The Court here interrupted Mr. Kirkpatrick, and told Mr. Miner that he now had the opportunity to say whether or not it was his intention to obey the law.

Mr. Miner declined to make any statement.

Court—That is equivalent to saying he will not.

Mr. Kirkpatrick said that Mr. Miner had made no declaration that he would not obey the law, and the Court should give him the benefit of the legal presumption that he would not break it.

The Court remarked that, under the circumstances, the accused's refusal to promise should be interpreted as such a declaration.

Mr. Kirkpatrick insisted that his future action should be judged by future results, and closed his argument by requesting the Court to let the question rest for the present at least.

Mr. Thomas Marshall said that the question in this class of cases was one of great importance. The position of attorneys was one of responsibility, and their example was felt in every community. The people looked to them for advice, and the case of Mr. Miner was a special one. The "Mormon" people had broken every law of morality in this practice. The offense of cohabitation was more injurious than any other crime known on the earth. The law of Congress was to stop this thing, and it was the duty of the Court to enforce it, and not weaken it and defy the people of the United States. He then asked for the disbarment of the defendant.

The Court then announced that a written opinion would be filed at an early day.

FROM MONDAY'S DAILY, NOV. 2

$10 Reward.—On Saturday night hoodlums committed an act of vandalism for which the guilty parties will be made to suffer if caught. All except one of the signs placed along South Temple Street, to indicate the names of the streets, from A to K, were torn down, and the signboards split. A number were also broken on other streets in the northeast part of the city. The City Marshal offers $10 to anyone who will give information that will lead to the detection of the culprits.

A Nervous Shock.—Shortly before 3 o'clock this afternoon, those who were passing along First South Street, east of the Deseret Bank, were made the unwilling spectators of an incident which imparted a decided nervous shock. A window on the third floor of the Heesch & Ellerbeck block had been opened, and there sat a little child on the lintel, dangling its feet over the sidewalk and as unconcerned as though it were not in the very jaws of a frightful death. The child was soon removed, and everybody who saw it breathed more freely

Accident.—About 7 o'clock on Saturday evening, Mrs. Elizabeth L. Hyde, who has almost reached the age of fourscore years, was walking around her house in the Thirteenth Ward, when she stumbled over a rock and fell heavily to the ground, receiving severe injuries. Dr. Anderson was summoned and found that the unfortunate lady's right shoulder had been fractured. The injury was attended to and Mrs. Hyde made as comfortable as the circumstances would permit.

Wheat Lost.—A sack containing about a bushel and a half of wheat was lost from a wagon a few days since while on the road between this city and Taylorsville. It was valued by the owner more highly than it probably would be by the finder, owing to its being a special variety of grain, which he had been at considerable trouble to raise. The person who found it will greatly oblige by leaving it, or information as to where it may be obtained, at this office.

Hand Shattered.—On Wednesday last Arthur S. Findlay was shooting in the meadows west of Lake Town, Rich County, Utah. He shot one chicken and while reloading the emptied barrel of his shot-gun left the trigger on the loaded side half-cocked. The jar resulting from the use of the ram-rod caused the hammer of the loaded barrel to come down and the load was discharged, taking the whole of the forefinger of Brother Findlay's left hand and the thumb nail off his right hand, and seared his face considerably.

The injured man was immediately taken by his brother Alma, to Montpelier for surgical treatment by Dr. Hoover, under which he is doing as well as can be expected.

Court Proceedings.—In the Third District Court on Saturday afternoon, the case of Peter Kraller vs. James Lawrence was referred to Presley Denny to try and determine.

Wm. Husbands vs. Fredinand Dickert; pending the hearing and decision of the motion for a new trial, execution and judgment stayed upon filing a bond by defendant in double the amount of judgment.

Frank Hoffman vs. London Bank of Utah; judgment of nonsuit.

This morning, James Duffy was admitted to citizenship.

United States vs. Robert Swain; unlawful cohabitation; sentence of six months' imprisonment and $300 fine and costs.

United States vs. A. Miner; unlawful cohabitation; motion of defendant to retax costs; prosecution move to allow more fees as costs of prosecution omitted in taxation. Argued and submitted.

John Cunnington et al. vs. John S. Scott, et al.; plaintiff moves for postponement.

Max Armer vs. C. M. Brown et al.; judgment as prayed.

John Gagan vs. J. H. Kyner et al.; motion of defendants for nonsuit argued and submitted.

Chas. D. Smith et al. vs. Harry T. Duke, administrator; judgment for $6,093.58, without costs.

Samuel I. Smith vs. Harry T. Duke, administrator; dismissed.

Stock Growers' Association.—We had a call this morning from A. J. Stewart, of Benjamin, Vice-President of the Utah Cattle and Horse Growers' Association, from whom we learn that not less than sixty persons from this Territory will go to St. Louis as delegates to attend the coming meeting of the National Stock Growers' Association to be held there. Those from the southern part of the Territory will start from Provo on the 17th and the whole party from this city and Ogden on the 18th, and will arrive in St. Louis on the 22nd, in time for the meeting of the Association, which will commence on the 23d inst.

The intention is that the delegates dress in home-made cloth, and arrangements have been made with some of the factories to obtain cloth at cost for this purpose. Those who have not yet provided themselves with the necessary home-made suits can purchase cloth for the purpose at the Provo Factory or from its agents, John C. Cutler & Bro., in this city, or at the Beaver Factory, at the rates agreed upon.

The delegates are also to be supplied with silver badges made from ore presented by the Ontario Silver Mining Company, a specimen of which can be seen in the show window of E. J. Swaner & Co., on Main Street.

It is expected that a number of ladies will accompany the delegates, and they also will wear home manufactured dress goods, some having been made by the Provo Factory for the express purpose.

The wearing of home-manufactured goods is not only very commendable, but especially appropriate in the case of these delegates who represent among other Territorial industries that of raising sheep.

ROBERT SWAIN

RECEIVES THE USUAL SENTENCE, AND IS SENT TO THE PENITENTIARY.

To-day was the date set for the sentencing of Robert Swain, for cohabitation with his wives. After the transaction of some small items of business this morning, Judge Zane asked, "Is Robert Swain in court?"

Mr. Swain came forward to the clerk's desk.

Court—You are aware that you have been indicted by the grand jury for unlawful cohabitation, and have entered a plea of guilty to the charge. Have you anything to say?

Mr. Swain—Nothing, your honor.

Court—Is it your intention to obey the law in the future?

Mr. Swain—The future, your honor, I will leave to the future. I have nothing more to say at present.

Court—Well, you will be sentenced to imprisonment in the penitentiary for the term of six months, and to pay a fine of $300 and costs, and will be committed until the fine and costs are paid.

Mr. Swain left the court room, and was taken to the penitentiary.

THE COSTS STEAL.

HOW THEY FIGURE IT UP IN COHABITATION CASES.

A subject that has caused considerable comment lately—the exorbitant amount of costs taxed in trials under the Edmunds law—was brought up in the Third District Court this morning by a motion of Judge Harkness to retax the costs in the Miner case. In the judgment these costs had been designated as: Marshal's fees $90.90; clerk's fees, $17.50; attorney's fees, docket and special, $50; total, $158.40. Judge Harkness stated that no objection was made to the clerk item, as that was all right; the objections were taken to the other items.

Before proceeding with the argument, Mr. Varian requested that Mr. Miller, Marshal Ireland's clerk, be sworn, which was agreed to.

Mr. Miller testified that he had prepared an itemized bill in the Miner case; that in going over the account a second time he found he had not gone far enough back at the first accounting and made the Marshal's fees out to be $134.40, instead of $90.90, as had been charged in the execution.

Judge Harkness then briefly argued the question, contending, in relation to the Marshal's fees, that only the actual expenses of the Marshal in the case could be charged; that witness' fees could not be included therein, as the Marshal was simply the disbursing officer; that in the judgment the item of witness' fees had been left out, and could not now be inserted, and the amount, $60.80, improperly called Marshal's fees, should be stricken out of the bill; the charging of fees for witnesses examined before the grand jury was not proper costs of a prosecution which did not commence until the filing of the indictment; the juror's fees, $24.25, were also improperly included, and should not be allowed. With reference to the attorney's fee of $50, he held that the only amount chargeable as costs was the fee allowed by law, and the amount allowed the District Attorney by the Government, $30, had no business there; that was the Government's allowance, and could not be justly charged to a defendant.

Mr. Varian contended that as there was no statute or rule of Court governing costs in criminal cases, these items of expense incurred should be charged to the defendant as costs. It was the intention of the government in this class of cases to fix the expense on the defendant, in the discretion of the trial judge. The prosecution commenced when the grand jury took hold of the case, and even at the commissioner's examination. The item for jurors' fees, Mr. Varian admitted, should not have been charged.

Judge Harkness remarked, in reference to the commencement of an action, that it could not be set by the filing of an indictment; as to beginning with a committing magistrate, the absurdity of such a rule would be shown in demanding as costs the expenses of a justice of the peace incurred in a preliminary examination. What the defendant in this case wanted was that the attorney's and marshal's fees be placed at the proper figure; the court could not add the witness' fees, as they had not been included in the judgment.

In connection with this matter, Mr. Varian moved that the correct account of Marshal's fees, $134.40, be substituted for $90.90, raising the total amount to $201.90, less the $24.25 jurors' fees.

At the close of the arguments the Court took the matter under advisement.

There are two points in this case on which occasion some surprise: one is that the petit jurors' fee item was admitted to be a fraudulent charge, and the other that even the grand jurors' wages for the day on which the indictment was found were not included in the bill, so that the greatest amount possible could be gathered in, a complete "scooping" of a "Mormon" on every conceivable plan being the rule. There may or may not be reason to suppose that the special amount allowed by government, which will not be accepted from that source, if collected from the defendant, that the sum assessed for petit jurors' fees in the Brala case will be refused. The fee-fiends seem rather too grasping for this. "Get money, honestly if you can; but if not—get money."