

THE DESERET EVENING NEWS.

TRUTH AND LIBERTY

TUESDAY, MARCH 12, 1901. SALT LAKE CITY, UTAH.

NUMBER 95.

FIFTY-FIRST YEAR

GENERAL HARRISON NEAR DEATH'S DOOR

Relatives Everywhere Notified—Suffered Much During the Night—Pres. McKinley Anxious for News.

Indianapolis, March 12, 4:10 p. m.—Gen. Harrison's condition remains about the same as last report. He has lost slightly in strength.

4:45 p. m.—No change in Harrison's condition since last bulletin. Patient is very weak.

No change in Gen. Harrison's condition since 4 o'clock.

JAMESON, M. D.
At 5 p. m. Gen. Harrison's condition is very critical. He has gained nothing since 4 o'clock. His circulation remains very weak.

At 5 o'clock Dr. Jameson issued the following bulletin:
"Gen. Harrison's condition is unchanged since 11 o'clock a. m. It is not more favorable than at that time."

The following dispatch was received by Mr. Tibbott:
"Washington, D. C., March 12.—Will you be good enough to advise me of Gen. Harrison's condition? The President is very much pained to learn by the latest reports of the serious character of the general's illness."

(Signed) GEO. CORTELYOU, "Secretary."

At 12:30 it was announced at the Harrison home that the patient's condition was unchanged.

Gen. Harrison's condition was not so favorable today. At 1 o'clock this morning there was a slight change for the better. The patient seemed to be suffering more pain, and was unable to rest.

Dr. Henry Jameson had been at the Harrison home until 3 a. m., and he returned at 4. He found the general a little more comfortable than when he had left him. His temperature had risen to 104.4, and respiration was

weaker. The patient suffered a good deal of pain in the afflicted lung.

At 1 o'clock Dr. Jameson said:
"Gen. Harrison's condition is worse this morning and his symptoms grow more alarming. After 2 o'clock a. m. he became more restless and his pulse and respiration increased. His mind is not so clear as on yesterday, and in fact there is nothing in his condition that offers any encouragement. The condition of the left lung has grown worse instead of better. Unless some remarkable and unexpected change for the better takes place we can entertain little hope of his surviving many hours."

The condition of the general is such that the relatives living elsewhere, have been notified to come as quickly as possible.

The physicians say that if the patient were a younger man they would have some hope, but owing to the age of the general they do not look for any change for the better.

Telegrams from all over the United States poured into the Harrison home today, showing the widespread interest in the condition of the former President.

THE GENERAL'S BROTHER.
Kansas City, Mo., March 12.—J. Scott Harrison, brother of Gen. Harrison, said at noon today that he and his wife would probably leave for Indianapolis this evening, although no word summing them had been received.

THE GENERAL'S DAUGHTER.
Saratoga, N. Y., March 12.—Mrs. Mary Harrison McKee, who resides here, and who is the daughter of Gen. Benjamin Harrison, would at once leave for Indianapolis, were it not for the fact that her two children, Harrison and Mary McKee, aged 15 and 13, are confined to bed with severe attacks of measles. Both Mrs. McKee and her husband, James R. McKee, are constantly at the bedside of the children.

BIG BREWING PLANT WRECKED.

Explosion of the "Cooker" the Cause—Two Men Killed Outright and Two Injured by Collapse of Building.

McKeesport, Pa., March 12.—The McKeesport brewing plant, valued at \$100,000, was completely demolished this morning by an explosion of the "cooker."

Two persons were killed and two injured by the collapse of the building following the explosion and one man is missing. Another man, who was standing on a freight car watching the rescuers, was killed by the fall of the car and was killed by a passing engine.

THE DEAD.
Wm. Ferlie, watchman, Matthew Markle, brewer.

TWO MEN KILLED, EIGHT INJURED.

Chicago, March 12.—Two men were killed and eight others injured in a head-on collision early today between a street car and a stock train on the Chicago & Northwestern road at Arden Heights, a suburb of this city.

THE DEAD.
Otto Schmidt, stockman, Palatine, Ill.
Geo. Black, stockman, Johnson Creek, Wis.

THE INJURED.
James H. Wilson, Fort Atkinson, Wis.
G. W. Worthington, Oak Center, Wis.
Charles Stiller, Janesville, Wis., probably fatally.

Edward Weber, Richmond, Wis.
W. H. Stevens, Sharon, Wis.
J. Bush, trainman, seriously.

Johnston, trainman seriously.

At 10:30 Senate bill No. 97 came up as a special order and on motion of Senator Allison this bill, together with House bills Nos. 157, 158, 159, and 160 were recommitted to the Judiciary committee in order to harmonize them. All of these bills relate to the establishing of city courts and the election of justices of the peace and constables in cities of the second class.

The committee on railroads submitted a substitute to Senate bill No. 26, making railroad companies liable for damages resulting from the killing of stock, and recommended the rejection of Senate bill No. 24. The substitute bill has not yet been printed.

House bills Nos. 151 and 152 were called back from the committee on Judiciary on request of Senator Allison and were passed today. They are two of the bills establishing city courts.

House bill No. 223, fixing eight hours as the length of the working day on all public works, which was voted down in the Senate a few days ago, was recalled from the House and passed this morning. It was the first action the Senate took on resuming business today.

AGAINST UTAH EXHIBIT.
The committee on appropriations and claims reported unfavorably on Senate bill No. 44, providing for an appropriation of \$5,000 for the Utah exhibit at the Pan-American exposition at Buffalo. The report recited that the committee was in favor of the object of the bill, but in view of the brief time left in which to prepare a fitting exhibit, it had decided that it would be best to let the matter drop.

Senator Allison moved the adoption of the report, and Senator Kiesel objected.

BRITISH TARIFF CHANGES.
Lord Arbuth Forethadown at Chamber of Commerce Meeting.

London, March 12.—Presiding at the annual meeting of the Associated Chambers of Commerce of the United Kingdom, which opened in London today, Lord Arbuth Forethadown addressed the members of the association, and the interests of the British commerce in America were the subject of the discussion.

At the termination of the present treaty, alterations, he added, were already being considered in the treaty with Germany, Austria and Portugal. He was greatly interested in the outcome of the tariff war, which had evidently been one of the main topics of discussion between the United States



EX-PRESIDENT HARRISON.

JOHN C. GRAHAM IS VICTORIOUS.

Supreme Court Rules in His Favor and Quashes Information.

NO ELEMENT OF CRIME.

Opinion Written by Judge Rolapp of Ogden, and Concurred in by Justices Baskin and Barich.

The Supreme court today handed down a decision in the case of the State vs. John C. Graham, appellant, charged with unlawful habitation, reversing the lower court, and setting aside the verdict of the jury also quashing the information.

The defendant was charged with unlawfully cohabiting with more than one woman in the county of Salt Lake continuously between the 1st day of January, 1898, and the 12th day of May, 1899. The points of law involved in the appeal were that the offense was not committed in this county, as one of defendant's alleged wives lived in Utah county, and one here; also that what the neighbors believed as to the defendant and his relations with the alleged plural wife living in this county was not sufficient upon which to base a verdict of guilt.

The opinion says: "The mere existence in some other county than that of the defendant, lawful in and of themselves, but necessary to be alleged and proven, in order to establish the crime of unlawful cohabitation, is not a part of the statute so as to permit the trial of the defendant in some other county."

"Applying this reasoning to the case at bar, and viewing the evidence in the light of the presumption of innocence accorded to every accused person, we must inevitably come to the conclusion that the jury were bound under the evidence in this case to regard as wholly innocent any relation, whether actual or apparent, existing between the defendant and the woman named in the information who resided in Salt Lake, and who claimed to be his wife. If in any case the relation founded either on actual marriage or on the holding of its existence, between a man and a woman living within the jurisdiction of the court, and no evidence of any illegal inception or character of the relation is produced, the conclusive presumption arises that such relation is that of lawful marriage."

This is so upon the well established rule that the law presumes a usual and ordinary state of things, rather than a peculiar and exceptional condition; it supposes legality rather than crime, and virtue and morality rather than the opposite qualities.

While residing with his wife in Salt Lake county the defendant did not flaunt in the face of the world the ostentatious and opportunities of a bigamous household. Consequently, while the defendant's association and relations with the lawful wife in Salt Lake county was a necessary matter to be pleaded and proven by the State, yet such association, act, or condition was not a public offense, nor part of any offense; and not being of constituting an unlawful element of any offense, it could not be an act, or the effects of an act necessary to the consummation of a crime, because no crime is composed in whole or in part of lawful acts.

We think, therefore, that the theory upon which the main instructions of the lower court were given were erroneous.

While it is not necessary to show sexual relations between such parties, and while it is true that a conviction would have been supported by showing other marital associations between the defendant and such wife, such is the holding out to the world, a semblance of marriage; yet the defendant could only be convicted upon proof of affirmative acts upon his part, from which the jury might infer guilt. But it would be setting a dangerous precedent to permit the mere belief or thought of acquaintances, or neighbors, or friends to become an element in any crime.

The opinion was written by District Judge Rolapp of Ogden, and concurred in by Justices Baskin and Barich.

SNYDER VS RASBAND BROS.
The Supreme court also rendered a decision in the case of Wilson I. Snyder, assignee for the benefit of the creditors of Rasband Brothers, appellant, vs. The Fidelity Savings association, a corporation, and Edwin M.

Johnson, reversing the judgment of the lower court, with costs.

The suit was brought in the district court of Summit county to compel the cancellation of a trust deed securing a \$2,000 note, executed by defendant Johnson, as trustee for the benefit of the defendant corporation, by Rasband Brothers, who, prior to the commencement of the suit made a general assignment to the appellant for the benefit of their creditors.

The Fidelity association is a Colorado corporation, and the note was made payable in Denver. The contract also provided that it was to be construed according to the laws of Colorado. A difference arose between the parties as to the amount finally due on the note. The appellant tendered what he held to be due, but the savings association refused to accept the amount of the tender, and refused to cancel the deed, whereupon the plaintiff brought suit as stated, alleging that the contract should be construed with reference to the laws of Utah, which the Supreme court held was proper.

Justice Barich wrote the decision, which was concurred in by Judge Baskin and District Judge Rolapp.

SCHMIDT CASE.
An opinion was likewise today handed down in the case of Goachin Smith, et al vs. The Third judicial district court, A. N. Cherry, judge, and the Rio Grande Western Railway company, affirming the ruling of the lower court.

The suit is in the nature of an application to the Supreme court to set aside the judgment of the district court, granting a new trial to the railway company. The statute provides that a motion for a new trial must be made within sixty days from the time of the judgment, and by stipulation, and other reasons, this matter in this case was allowed to go beyond the statutory period, and finally when it came up the court granted the defendant a new trial, and plaintiff appealed on the ground that the lower court had lost jurisdiction. The Supreme court holds that inasmuch as part of the defendant's claim for accommodation to the plaintiff, that he cannot come in and take advantage thereof. District Judge Hart of Logan wrote the opinion, Justices Baskin and Barich concurring.

To Quiet Title.
Robert K. Smith commenced a suit today in the district court, against the Forty-third school district of this county and five other defendants, to quiet his title to a one-fifth interest in two pieces of property in sections 23 and 26, township 3 south, range 3 west.

Motion Overruled.
Judge Hall yesterday afternoon overruled the motion of defendants for a non-suit, in the case of J. W. Scott, administrator of the estate of James McCann, deceased, vs. James Crouch et al, the trial of which was commenced several days ago. The suit involves a one-tenth interest in the Zellerbach mining claim at Bingham, and the plaintiff claims to be the owner of the same. The defendant, James Crouch, is alleged to be one of the original locators thereof. Judge Hall this morning, on the trial being concluded, rendered his decision in favor of the defendants. The plaintiff will appeal from the judgment.

Guardianship Petition.
Robert Hodge filed a petition in the district court today asking that he be appointed guardian of William and Christina Hodge, aged 74 and 71 years respectively. The petitioner says that Mrs. Hodge is wholly incompetent, and that about five years ago the old people, who live in this city, conveyed all of their property to petitioner, who is their son. If he would thereafter take care of them, which he has done and does to do, and therefore asks to be appointed their guardian.

HON. W. H. KING RETURNS.
Says Work on Federal Building Will Soon Commence.

Hon. William H. King, ex-United States Congressman from Utah, returned this morning from Washington, where he has been during the present term.

When seen this afternoon Mr. King stated that he had returned to Salt Lake with the intention of taking up his law business, which he had of necessity been forced to neglect, to an extent, during the time he has been absent from the State.

In speaking of the business which has been transacted during the past session he said: "It will be of interest to the people here at home to know that work will be pushed on the federal building here. I was speaking to the architect last week, and he assured me that the plans for the building would be ready by the end of June, so we may confidently expect that building operations will be commenced on the site during the coming summer."

PENSIONS AND PATENTS.
[SPECIAL TO THE "NEWS."] Washington, D. C., March 12.—Increase of pension granted Edward Michaels, Salt Lake, \$12.

A patent has been granted Chas. C. Edwards of Bingham Canyon, Utah, for embroidery hoop.

BOERS' LAST APPEAL TO GOVERNMENTS.

Delegates Assemble in Paris—Rumors in London that Botha Will Soon Surrender—Dewet Moves Northward.

Paris, March 12.—The International Federated Union for the Independence of the Boers, with delegates from the most of the European countries has held meetings in Paris for the past three days. The American delegate is Mr. Mattan. It was decided today to address a protest to the various governments against the conduct of Great Britain in violating The Hague convention.

The union also issued a manifesto exhorting the valorous struggle of the Boers, fighting in the cause of liberty, to the purpose of satisfying the independence of the Boer republic.

BOTHA TO SURRENDER.
London, March 12.—4:50 p. m.—A report is current that the government anticipates a speedy announcement of the surrender of Gen. Botha, the commander-in-chief of the Boers.

Inquiries at the war office show the officials there have no recent news of the surrender negotiations. They think the armistice expired March 14 and are inclined to believe Gen. Botha will surrender, but the officials are doubtful in regard to the other Boer commanders in the field.

DEWET GOING NORTH.
London, March 12.—A dispatch from Gen. Kitchener dated Pretoria, March 12, says Gen. Dewet is north of Brandfort, Orange River colony. Continuous rains have interfered with the movement of the troops in Cape Colony. Two bands of Boers are being hunted among the hills by troops under Goringe, DeLisle, Gredif and Henniker.

33 PRISONERS, 5,000 HORSES.

Boer column has cleared the country of Boers between this place and the Orange river. The column has arrived here, bringing 33 prisoners and 5,000 horses.

RESERVOIR BILL IS NOW DEAD.

After some objection on the part of D. H. Morris, Mr. Holmgren effected the introduction of House bill No. 238, to provide for mutual fire assessment insurance associations, which he said had been earnestly urged by 200 farmers.

The speaker appointed Representatives Harmon, Axton and G. W. Johnson a committee to confer with a like committee from the Senate as to the advisability of passing Senate bill No. 65, the bill to create county stock inspectors.

The Senate amendments to House bill No. 94 relating to the funding of county indebtedness, were adopted and the bill passed by a vote of 29 to 1.

Smith's bill, No. 110, to prevent the sale of cigarettes or cigarette paper proved a bone of contention. The majority report of the committee on public health was that the bill be rejected. There was a minority report, however, and it was equally in favor of the passage of the bill. Finally the matter was compromised by the bill being filed for third reading.

Smith's bill, No. 213, was explained by the author as making definite the matter of paying costs on appeal. Mr. Cutler made a general kick on bills passing which emanated from the lawyers, and which the lay-element of the House did not fully understand.

Mr. Smith retorted that he did not care. The bill was "pro bono publico." All the lawyers had to do with it was to collect the fees. The bill passed by a vote of 29 to 1.

Phillips reservoir bill, which was debated last night, was again in order on the calendar. D. H. Morris put a spoke in its wheel. He did not see where the money for the appropriations asked for for the building of reservoirs was to come from.

Mr. Bench favored the State paying some appropriation towards the building of reservoirs but thought 15 per cent was enough. A motion to this effect carried.

Mr. Anderson thought that the water from all reservoirs built in this way should be turned into the rivers for the use of the people.

Mr. Gardner asked that Senate bill No. 32, covering the same ground, be substituted. The bill was in the hands of the irrigation committee, and Mr. Anderson objected to its recall. The committee should only see the grant lands as reservoirs were built, and there was no chance of perpetuating the fund under the terms of the Phillips bill. The bill only received 17 votes for, six short of the number necessary to pass it.

Hewitt's voting machine bill received some hard knocks. It was found that the bill authorized the use of voting machines but did not say anything about their purchase. In answer to a question Mr. Hewitt stated that the machines cost in the neighborhood of \$400. This made members wince. Finally the bill passed by a vote of 31 to 1.

Bill No. 90, to create the office of stenographer of the Supreme court at a salary of \$1,200. Mr. Bench moved that the Senate cut from \$1,500 to \$1,200 be further cut to \$900, and the amendment was adopted. The bill thus passed by a vote of 37 to 7.

Howell's Senate bill No. 89, providing for the fees to be collected by the secretary of state for services performed in his office, was next on the calendar. The secretary of State Hammond, who was in the House, and who was there by the law which the bill would make, he said one change in the bill was the elimination of a maximum fee for incorporating of \$2,500. This provision, he explained, had lost to the State last year about \$2,000. The American Smelter company would shortly file articles of incorporation. If this bill became law, an act that a corporation would pay to the State treasurer \$3,750 instead of \$2,500. Another change in the bill was the reduction of the fee for requisition papers from \$10 to \$5, and provision was made for the filing of papers not otherwise provided for. The bill was passed by a vote of 30 to 2, the only amendment being to increase the amount payable for insurance agents' certificates from \$2 to \$5.

BILLS PASSED.
Lawrence's Senate bill No. 161, relating to fraud and misconduct of agents of corporations, was the first bill acted upon this afternoon. The bill changes the old law by imposing a penalty for the issuing of fictitious stock. It passed by a vote of 29 to 1.

McGregor's bill to provide for mileage of district judges and attorneys, having been returned from the Senate with amendments to \$5 cents in the House was passed by a vote of 31 to 7, after some demur from Homer, Cutler and others. Mr. Smith explained that if the adoption of the Senate amendments were not accepted the result would be that there would be no provision at all for mileage. The matter of revising the journal of the House was brought up by Mr. Barrett, who asked that the Speaker be authorized to make the necessary changes.

associated with the chief clerk for this purpose. The Speaker excused himself as he expected to leave town immediately after the close of the session.

The motion was carried that one member from each side of the House, along with the chief clerk, constitute a committee to revise the minutes and that they be allowed one month's salary for this duty. It will be the duty of this committee to see that the journal show correctly the proceedings of the House.

By consent, Mr. Hower introduced a bill to appropriate \$400 for a board of commissioners, consisting of the superintendent of public instruction and two laymen, to carry on the free traveling library system throughout the State, the commission to be appointed by the Governor.

Howell's Senate bill No. 88, providing for the approval by the Governor of the State of the bonds of certain State officers, was passed unanimously.

Lambert's bill to appropriate \$5,000 for the purpose of destroying ground squirrels and gophers, came within an ace of passing after time had been allowed for Beaver county, which was later included in a general amendment. Some merriment was occasioned by a vote to allow \$1,000 for Salt Lake county. That the measure is a popular one was evidenced by only 4 votes being cast for Mr. Smith's motion to strike out the enacting clause. Mr. Smith later explained that he made his motion for \$1,000 and to kill the bill for the purpose of satisfying himself whether this was a question of special legislation and favored certain counties, ignoring the claims of others. He had established this fact at least in his own mind, and he was satisfied to let the matter pass. A new bill was ordered prepared, which will be submitted very shortly.

House bill No. 46, allowing the D. A. & M. society to offer premium imported stock, was passed unanimously.

SEWER PIPE CONCERN.
Ogden Company Files Articles of Incorporation Today.

Articles of Incorporation of the Ogden Sewer Pipe and Clay Company were today filed in the office of Secretary of State Hammond. The incorporators are: John S. Lewis, and twenty-seven other people, eighteen of whom reside in Ogden, where the principal place of the concern's business is to be located. The amount of the capital stock is given as \$50,000, which is divided into 100,000 shares of the par value of 50 cents each, of which \$47,500 has been subscribed for by the various incorporators.

James M. Harris is president; Robert M. Gourlay is vice president; William E. Wester is secretary; and Ed B. Lewis is treasurer, who, together with John S. Lewis, Paul W. Stecher and Abraham A. Wenger, all of whom reside in Ogden, constitute board of directors.

The purposes of the organization are to manufacture and sell drain tile, sewer and water pipe, brick and other clay products. The new corporation, it appears, has purchased the property, and will be the successor of the Enterprise clay works of Ogden.

SIDEWALK CONTRACT.
One is Let by the Board of Public Works Today.

The board of public works held a meeting this forenoon, and opened bids for the grading of the sidewalks on both sides of Second West, from Eighth to Tenth South Streets.

The bid of J. H. Reese was found to be the lowest submitted, which was 12 1/2 cents a foot for gravel, and 40 cents per cubic yard for earth embankment. The contract was awarded to Mr. Reese.

LATE LOCALS.
County Clerk James this afternoon issued a license to wed to Howard Price, 36, of Sandy, and Meranda Jane Holt, 30, of South Jordan.

William V. Beaten and wife have conveyed the Harriet C. Gannick, all of this city, for \$2,650, 340 rods of lot 2, block 28, plat 7, being on the corner of Third South and Tenth East streets.

Two horses belonging to Seth Brown of 13 Peach street, were found dead yesterday near Ensign Peak, ridden with bullets. Mr. Brown had turned them out to graze upon the reservation near Ensign Peak. He has no idea who shot them and has reported the matter to the police department.

E. V. Hultstrom is a young man who has had much trouble in the few years he has resided in Salt Lake. About three years ago he fell from a window of the old Utah University and broke several bones, necessitating serious internal injuries. On recovering he made a heroic struggle to secure a practical education and recently graduated and secured a position in the industrial department of the Z. C. I. L. Last evening he was operated on at the Holy Cross hospital for what was supposed to be appendicitis but which was really an abscess in the region of the appendix. The critical stage of his trouble has not yet arrived and it is not known whether he will recover.