

THE DESERET NEWS.

TRUTH AND LIBERTY.

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DESERET NEWS:

WEEKLY.

PUBLISHED EVERY WEDNESDAY.

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DESERET NEWS:

SEMI-WEEKLY.

PUBLISHED EVERY TUESDAY AND SATURDAY

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EVENING NEWS:

Published every Evening, except Sunday.

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" " six months, " 5.00
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TERMS IN ADVANCE.

OFFICE—Corner South and East Temple Sts.

LOCAL NEWS.

FROM TUESDAY'S DAILY. APRIL 28.

Another Arrest.—A deputy marshal by the name of Collins this morning made his appearance at the *Juvenile Instructor* office, and there served a warrant upon Abraham H. Cannon, citing him to appear before Commissioner McKay and give bonds for his appearance for trial when wanted, he having been indicted on the 10th inst., on a charge of unlawful cohabitation. On appearing before the Commissioner, that functionary named \$1,500 as the amount of security required, and accepted John C. Cutler and N. V. Jones as sureties.

Burned.—Shortly before 3 o'clock this morning the saloon belonging to Mr. H. Barring, at the corner of Second South and Fifth West Streets, opposite the D. & R. G. W. depot, was discovered to be on fire, and the alarm given. The fire brigade were soon at the place, but there was a considerable delay in getting the water on the building, as enough hose was not brought down. The fire started on the east side of the structure, and is supposed to have been the work of an incendiary. Some of the men who burst open the doors freely assert that coal oil or some other inflammable fluid had been poured on the floors, so that when the fire got from one room into another, the whole room would be in flames almost instantly. A billiard table and two chairs were the only articles saved. It was fortunate that the wind blew the flames toward the street, as otherwise adjoining buildings would have been consumed. The total loss will amount to about \$4,000. The place was insured for \$3,000.

ONE OF THE UNEXPURGATED

MAKES AN INDECENT ASSAULT.

Having learned a rumor reflecting upon the character of one of the present jurors of the Third District Court, a representative of the News this morning had an interview with Mr. Clarence Merrill, of this city, to obtain the facts in the case.

Mr. Merrill admitted that a man by the name of A. M. Johnson had been boarding at his house for a number of months, and that he had reasons for believing him to be a lecherous scoundrel.

Briefly told, the statement of Mr. Merrill was to the effect that some days since, when he made a call for his family to assemble for their evening devotions, there seemed to be an unusual delay about two of his daughters, aged respectively 15 and 13 years, responding. Feeling a little nettled at it, he called rather sharply for them and then sent one of his boys to ascertain where they were. Soon afterwards the girls appeared, looking greatly confused, and were chided by their parent for their absence, the reason for which they did not explain. No notice was afterwards taken of the circumstance, and it would soon have been forgotten by the parents had they not learned a few days subsequently from a relative to whom the two girls confided their story, that the reason of their detention was that Mr. Johnson, the boarder, had attempted to take improper liberties with them, the older one first, and afterwards, when she broke away from him, with her sister, and that in the latter case he only desisted when her father's voice was heard calling her. The feelings of the parents on learning for the first time yesterday of this diabolical attempt, and having it confirmed by questioning the girls personally, can be more easily imagined than described. Their indignation towards the miscreant who would have accomplished, if he could have done, their daughters' ruin, is only equalled by their thankfulness at his having been foiled in his vile purpose.

Lest he might not see him personally, Mr. Merrill immediately wrote a note for his boarder to get, if he, should call at the house, warning him to seek other quarters, but Mr. A. M. Johnson did not put in an appearance at the house last night.

The News scribe subsequently obtained an interview with the younger of the girls, and questioned her while in the company of a relative concerning the matter, and her answers to the questions propounded to her, though given in tremulous tones and in a very modest manner, were straightforward and convincing, and corroborated in every particular the statement made by her father.

In reply to the query as to whether Mr. Johnson had since that occasion ever renewed his vile attempt or spoken to either of the girls concerning it, the girl said that both she and her sister had avoided him, so that he had really had no opportunity to do so.

TRIAL OF ANGUS M. CANNON.

THE JURY COMPLETED—TODAY SPENT IN WRESTLING WITH LEGAL QUESTIONS.

At a quarter to five o'clock last evening, the Marshal made his return of the special venire.

62 James W. Burbidge was called, and in answer to Mr. Brown said he had heard of the case through the public press, and had formed an opinion which was not unqualified; had no bias for or against the defendant.

Examined by Mr. Dickson—Was acquainted with defendant, and on friendly terms, but his friendship would not influence his judgment. The opinion he had formed would not interfere with his verdict as a juror. He was a member of the Church, in fellowship, and accepted its teachings. Believed it right for a man to have more than one wife at a time. Challenged and excused.

5 Robert Mulhall, had heard and read of the case, and had formed an opinion, based on his general view of the subject, not on the facts. He had no bias in the case.

By Mr. Dickson—Had been acquainted with the defendant in business for about four years. Did not believe it right for a man to have more than one living and undivorced wife, or to live in the practice of unlawful cohabitation.

Mr. Mulhall was sworn. This completed the panel, which is as follows:

187 Wm. D. Palmer,
111 Peter Clays,
19 Phil Klipple,
199 J. M. Richardson,
81 M. F. Simmons,
65 T. G. M. Smith,
177 C. J. Smith,
133 Martin Mankin,
69 A. M. Johnson,
191 W. M. Clark,
59 Thomas Davis,
5 Robert Mulhall.

The jurors summoned on special venire were discharged from further attendance.

The clerk then read to the jury the indictment charging President Cannon with unlawful cohabitation with Amanda Cannon, and Clara C. Mason Cannon, "contrary to the peace and dignity of the United States, and the form of the statute in such case made and provided."

The bailiff who was placed in charge of the jury was then sworn, as was also the proprietor of the Valley House, at which place the jurors were to be furnished lodgings, and the jury were instructed to hold converse with no one outside of their number on the subject of the trial, after which the court adjourned until 10 o'clock this morning.

The court room was well filled with spectators at 10 o'clock to-day. After the calling of the names of the jurors Judge McBride, of defendant's counsel, moved to quash the indictment for the reason that it was insufficient and defective, in not containing all the elements made necessary by the statute, and not stating that the defendant was a male person. He cited numerous authorities in support of his position.

Prosecuting Attorney Dickson argued that by giving the indictment a reasonable interpretation, it would appear that the defendant is a male person, and such a fact need not be specifically set forth. The allegation of the crime was sufficient to show the intention of the indictment. He also cited authorities.

Mr. Varian, Assistant Prosecuting Attorney, argued that the indictment sufficiently described the accused as belonging to the class of persons against which the law is directed. Said that the point could not be raised at this stage of the proceedings, but should have been made as a special demurrer. The name stated was that of a male, and was a competent description. The name had been accepted by defendant as his name when he entered his plea.

Judge McBride said it was not a question of mere form, but of an element of the crime, and argued that the authorities cited by the prosecution

had no reference to the case. The indictment did not, in any part, refer to defendant as a male. This objection was an element of the charge, and this was the proper time for its introduction. The use of the name was simply to identify the person, and did not indicate to what class the defendant belonged. The charge must not be made inferentially, but, as the law requires, directly. The allegation of an essential element of the crime had not been made.

Judge Zane, in his decision, said that the defense claimed the conduct charged as a crime did not appear to be committed by such a person as made it a crime; but the charge, the Court ruled, indicated with sufficient clearness that the offense was committed by a male, and the name of a person described that person, and with his peculiarities. There was a rule which made a distinction among the names of males and females. The courts in modern times, relied more on reason than on technicalities of form. This court was of opinion that the name Angus M. Cannon, made it about as certain that defendant was a male as if the word was used. The motion was denied.

Mr. Dickson addressed the jury, stating that the prosecution proposed to show that the defendant had married the two women alleged in the indictment; that he had children by them, the youngest child being five years of age; that all dwelt in the same house, the plan of which he described. It was not intended to prove actual sexual intercourse, but to show that if a man lived in the same house with two women whom he had admitted to be his wives, that would constitute the offense of unlawful cohabitation under the law.

Mrs. Clara C. Cannon was called as the first witness, but Judge Bennett asked that an adjournment be had until 2 p. m., as counsel for the defense were deliberating as to whether they would take issue with the principal point raised in the statement of the prosecution as to what constituted unlawful cohabitation.

The witnesses in attendance, except those in the Cannon case, and the jurors outside of those in the jury box, were excused until 10 a. m. to-morrow.

The court took recess until 2 p. m.

On re-assembling at 2 p. m.

MRS. CLARA C. CANNON

was called and sworn:

Examined by Mr. Dickson—Knew the defendant Angus M. Cannon.

Is he a male person?

Objected to by Judge Sutherland.

Withdrawn.

She was his wife; was married to him about ten years ago; had lived since then at Salt Lake City, at 246 W First South Street, and now lived there; the defendant had lived in the same house during the past three years; she had one child of that marriage, born January 11, 1882; two others, born before that date, were dead; witness occupied the ground floor, two rooms on the east side, with kitchen at back; there was a hall in the house; her rooms were on the east side; knew Amanda Cannon; she had lived in the same house, and had two rooms on west side of hall, and kitchen at back; Amanda, she supposed, was Mr. Cannon's wife; had heard Mr. Cannon speak of her as such; she had nine children, all living at home with her; Clara's little child lived with her, and Amanda's children with their mother; Mr. Cannon had taken his meals about one-third of the time with her, during the first part of this year, every third day; about one-third of the time with Amanda; took three meals on week days, and Sunday morning, breakfast with her, dinner at Sarah's, and supper at Amanda's; there were four rooms on the second floor, bedrooms, separated by a hall, into which the rooms opened; Clara had occupied the bedroom in the northeast corner, and Amanda in the southwest corner; defendant occupied the bedroom in the southeast corner; Clara's room and Mr. Cannon's were on the same side of the hall.

Cross-examined by Judge Bennett—Gave the names of her children, three, and two left to her care; her youngest was three years old last January; the orphans and others had lived with her for the last five years; two of them, and her eldest and youngest daughters occupied her bedroom; there were two beds.

Q.—Did that condition continue up to last February?

Objected to by Mr. Varian as incompetent, because it would tend to establish non-marital intercourse, and the plan of the prosecution was hostile to such testimony. The defendant was indicted for unlawful cohabitation with more than one woman. The spirit and intent of this law, was, in its purpose, to be considered as a whole. At the time of the enactment the attention of Congress and the country had been attracted to this Territory, and legislation sought in that behalf. Certain communities, in contravention of the moral sense of the people, had adopted a certain form of

marriage. It was not the intent of the law to strike at sexual sins. This was left to the local law. Adultery and fornication, and similar crimes were not the class against which the national legislature was directed. It was only when an organized effort in the direction of plural marriage was made that the national hand was extended. The object was to withdraw from plural marriage the sacred name of marriage, and Congress left out all questions concerning sexual sins, and the illicit commerce of the sexes. It was the act of creating the marital status, and Congress did not stop there. Cohabitation was a consequence of matrimony. Matrimonial intercourse was a rational consequence of this. This cohabitation gave the opportunity, and the law was directed against its consequences. It was not against adultery, lasciviousness, or sexual crimes; these were left for local laws. The greater object of Congress was to throw its safeguard around the marriage state; it went farther, the act of marriage might, through the lapse of time, become barred, but any man who cohabited with more than one woman should be guilty. Congress did not mean lascivious cohabitation, nor matrimonial intercourse, but matrimonial cohabitation. This meaning was clearly expressed. The legislative enactment struck not at lascivious or lewd cohabitation; it left that alone; it was striking at matrimonial living and dwelling together. It found recognition, politically, in the law. Living or dwelling together of man and woman as husband and wife was the practice at which the law was directed. The crime was against the marriage state—that was what Congress desired to correct.

The living together of a man with more than one woman, as wives, was a public scandal, repugnant to the moral sense of the civilized world. The national legislature had something else to do than look for sexual vice; they were looking farther when they passed the Edmunds law. If it had been adultery or fornication, those words would have been used; but, no, it was "cohabitation"—the living together of married persons. "Cohabit" means dwelling together, in this act, as husband and wife—matrimonial cohabitation. The act was not directed outside of the marriage relation. If a man lives in the same house with a woman he calls his wife, where the status was created by a ceremony, the relationship was practically continued by cohabitation, by living in the same house, eating at the same table, and it makes no difference what the secret conditions are, the matrimonial cohabitation was perfect without them. There was not a complete cohabitation in dwelling together without a marriage. Matrimonial cohabitation and matrimonial intercourse were separate and distinct. Matrimonial intercourse might be broken off for various reasons, and yet matrimonial cohabitation continue.

Mr. Varian continued his argument on this base at some length, citing authorities in support of his position.

He said Congress meant to strike a blow at matrimonial cohabitation as man and wife, even where no marriage ceremony exists, or is proven. Visiting or even staying with for a time was not cohabitation. It was the habit and repute of marriage, not the fact, at which Congress directed the law. It was to prevent the holding out that a man was violating the law of the land, to the scandal of society, in the habit and repute of polygamous marriage. It was a recognition of families not known to the law and society, that the act was designed to prevent.

Judge Sutherland contended that the question was proper, whether the assertions of the prosecution were correct or not. The jury could not decide whether or not there was cohabitation unless they knew the whole facts. The prosecution wanted the details of living together; the defense wanted to show how. The jury would decide the question.

The argument was in progress when we went to press.

Deputy Registrars.—The Utah Commission yesterday appointed the following deputy registration officers:

CACHE COUNTY.

Thomas Rowland, Logan Precinct.
Aaron De Witt, Hyde Park.
James Hadfield, Smithfield.
Adam Sandberg, Richmond.
John Anderson, Coveville.
Rasmus Anderson, Lewiston.
Wm. D. Goodwin, Trenton.
Joseph Wood, Clarkston.
Henry Griffiths, Newton.
Edward Nelson, Benson.
Michael Poulson, Peterborough.
Joseph Baker, Mendon.
Samuel P. Hall, Wellsville.
Mark Fletcher, Hyrum.
Wm. N. Jasky, Paradise.
John Nelson, Jr., Millville.
Henry Fletcher, Providence.

RICH COUNTY.

S. V. Frazier, Woodruff Precinct.
George A. Peart, Randolph,

W. P. Nebeker, Laketown.
Joshua Eldredge, Meadowville.
Wm. Pead, Garden City.

UINTAH COUNTY.

S. M. Brown, Ashley Precinct.
Joseph Morey, Brown's Park.

UTAH COUNTY.

Stephen Moyle, Alpine Precinct.
W. G. Higley, American Fork.
David Howe, Benjamin.
James P. Clark, Cedar Fort.
Wm. Thomas, Fairfield.
Wm. Price, Goshen.
James Harwood, Lehi.
Geo. P. W. Stevenson, Lake View.
James S. McBeth, Payson.
J. M. Ballinger, Pleasant Grove.
Fred. Meakin, Pleasant Valley Junction.
J. E. Hills, Provo.
Newel Knight, Provo Bench.
Andras Engberg, Salem.
J. W. Holliday, Santaquin.
J. M. Moore, Spanish Fork.
J. M. Wheeler, Spring Lake.
D. C. Huntington, Springville.
Edward Simons, Thistle.

WASHINGTON COUNTY.

Joseph C. Bentley, St. George.
Samuel Knight, Santa Clara.
Franklin O. Holt, Gunlock.
Levi N. Harman, Washington.
George Isom, Virgin City.
James P. Terry, Rockville.
Robt. W. Reese, Duncan's Retreat.
James E. Pace, New Harmony.
George Spilsbury, Toquerville.
John H. Ballard, Grafton.
Samuel K. Gifford, Springdale.
Julius Jordan, Silver Reef.
John H. Harrison, Pinto.
Samuel Miles, Price.
Charles Westover, Jr., Leeds.
J. B. Bracken, Jr., Price Valley.
Charles F. Stevens, Jr., Shonesburg.
Daniel M. Tyler, Hebron.

PIUTE COUNTY.

Ed. McDougal, Grass Valley.
Hila Burgess, Kane.
John S. Graves, Burgess.

WASATCH COUNTY.

Thomas Smith, Heber.
Attewall Wooten, Midway.
Jerome W. Kinney, Charleston.
Joseph Kirby, Wallsburg.

EMERY COUNTY.

Robt. J. Whitney, Castledale.
J. T. Farmer, Blake.
Michael Nolan, Ferron.
Caleb Rhodes, Price.
John D. Kilpack, Molen.
R. B. Thompson, Wellington.
O. W. Warner, Moab.
John S. Lewis, Muddy.
C. T. Wakefield, Huntington.
A. J. Harkness, Scofield.

SUMMIT COUNTY.

Wm. H. Smith, Coalville.
Edward C. Morse, Echo.
Carl Christensen, Grass Creek.
Stephen Foster, Heneferville.
Clifford Daniels, Hoytsville.
Erasmus Sorenson, Kamas.
Joseph M. Cohen, Park City.
James A. Williams, Parley's Park.
Wm. H. Stevens, Peoa.
Wm. Strowbridge, Rockport.
Wm. Smith, Jr., Upton.
Geo. M. Robinson, Wanship.

TOOELE COUNTY.

Wm. F. Moss, Mill.
John Hillstead, Batesville.
James Brachet, Lakeview.
Robert Scott, Tooele.
Thos. Williams, Grantsville.
John W. Thompson, Ophir.
Richard N. Bush, Clover.
Edward J. Arthur, St. John.
Louis Strusberg, Vernon.
Fred Snively, Deep Creek.
D. B. Stover, Stockton.

The Old, Old Story.

Why do we hear so much about dyspepsia? Simply because so many people have it. Why are so many people talking about their cure from this dreadful disease? Simply because they have been taking Brown's Iron Bitters. Thus it is with Mrs. Taylor of Lynchburg, Sumter Co., S. C., who says, "I have used Brown's Iron Bitters for dyspepsia with most favorable results. I believe this medicine is all that is represented." Dyspeptics, and sufferers from neuralgia, weakness, etc., should try it.

ESTRAY NOTICE.

I HAVE IN MY POSSESSION.

One dark bay MARE, 4 years old, shod on forefeet, broke to ride, branded on left shoulder.

One dark bay MARE, 4 or 5 years old, white face, 4 white feet, white spot under right side of belly, branded (—), or two half circles with a bar connecting them, on left thigh.

One dark roan MARE, 5 or 6 years old, spot in forehead, branded JN L on left thigh.

Which if not claimed and taken away by May 9th, 1885, will be sold at the District Pound, Nephi, at 9 o'clock a.m.

PETER SUTTON,
District Poundkeeper.
Nephi, April 28, 1885.