

FROM SATURDAY'S DAILY OCTOBER 1.

BEFORE JUDGE ZANE.

Trials and Actions in the Third District Court.

In the case of the United States vs.

WM. S. MUIR,

of Bountiful, Davis County, after the News went to press yesterday afternoon, the jury returned a verdict of guilty against the defendant, of the offense of unlawful cohabitation, and he was ordered to appear for sentence on Wednesday, October 12th.

As he was leaving the court room, Mr. Muir and his wife Lucy Darke Muir were arrested, the former on the charge of adultery, and the latter charged with fornication. Mr. Muir's bail was fixed at \$2,000 and his wife's at \$900, on giving which they were liberated. This prosecution grew out of the fact that the defendant had gone on the stand and testified that he had lived with his plural wife, Lucy, since March last, and that she had also testified to the same fact. The evidence given in the unlawful cohabitation case by both parties will thus be used against them on the other charges.

After the close of the proceedings in the Muir case, the trial of

HYRUM S. COOPER,

an ex-Mormon, of West Jordan, was held. He was indicted under the Edmunds-Tucker law for adultery with his wife's sister, who had had a child by him without there being any form of marriage ceremony between them, his wife being an inmate of the insane asylum.

The evidence was to the effect that the defendant, when he was arrested, had said he was going to plead guilty. This was said to the officer who made the arrest. The principal in the case, however, H. S. Cooper, and Miss Sarah J. Green, testified that there had been no criminal intimacy between them for the past year; they both lived in the same house.

The jury brought in a verdict of acquittal.

JOSEPH C. PERRY,

of Brighton, Salt Lake County, was called for sentence for unlawful cohabitation. He declined to make any promise as to his future conduct toward his wives, and was sentenced to imprisonment for six months and to pay a fine of \$50 and costs.

The case of the United States vs.

JOHN R. BARNES,

of Kaysville, in which the defendant has been accused of unlawful cohabitation, was continued for the term by consent.

The jury in the case of adultery against

ALEX. BROWN,

an ex-"Mormon," came into court at 8 o'clock. They had been out about eight hours, and had been unable to come to an agreement. This was reported to the court, and they were discharged. It is understood that throughout the day the vote of the jurors stood eleven for conviction and one for acquittal. The one was E. D. Egan, who persistently held to his position, and the result is that the defendant Brown will probably have to stand another trial.

The case of the United States vs.

SARAH E. WINEGAR,

charged with fornication, being connected with the Brown case, was continued for the term, and court adjourned till this morning.

To-day Attorney Frank Hoffman asked the Court to have defendants Boud and Taylor, of Bingham, indicted for murder in the first degree, removed from the county jail to the penitentiary for confinement until their trial should be held. The Court stated that an order of court was not necessary in the case, as the penitentiary was the proper place for their custody. They will be moved to there.

A jury was called in the case of the United States vs.

SAMUEL ANDERSON

of this city, this morning. The defendant is charged with the offense of unlawful cohabitation, in living with more than one wife, and had entered a plea of not guilty.

Mrs. Anna Anderson was called as the first witness in the case.

Mr. Rawlins, for the defense, objected to the lady being sworn.

Mrs. Anderson was sworn on her *voir dire*, and testified that she was the legal wife of the defendant, and did not want to testify.

Mr. Peters insisted that the legal wife was a competent witness if she was herself willing to testify, notwithstanding her husband's objection.

Mr. Rawlins contended that her objection should be tried before the court and not before the jury.

The court overruled the objection to the witness being sworn.

Mrs. Anderson was sworn and said: I do not wish to testify, because I am the legal wife of the defendant.

Mr. Rawlins asked the court to instruct the jury that they were not to consider Mrs. Anderson's testimony. He held that her competency was to be decided by the court alone, and not before the jury.

Mr. Clarke opposed this proposition, and argued that the declaration of the witness was a part of the case.

The Court held that the witness could not be compelled to

GIVE ANY TESTIMONY

whatever in the case, against the objection of the husband or wife who should be the defendant in the case. The Court said: "I understand the consent to mean the the other side, the defendant, the husband or wife, and not the witness. If the husband or wife consents, the witness may be compelled. It is not for the protection of the witness, but of the husband or wife who is the defendant. I am of opinion her testimony should not go to the jury." It is for the court alone. The testimony will be stricken out so far as the jury is concerned.

Johanna Bocker was called. Mr. Rawlins asked that the witness be instructed that she could refuse to testify to anything that would tend to criminate herself of any offense.

Mr. Clarke insisted that the Court was not authorized to so instruct the witness.

The Court replied that if the witness was ignorant of her rights, the Court could not take advantage of that fact but should inform her of the law. The witness could not be required to testify if she declined on the ground that her evidence might tend to

CRIMINATE HERSELF,

and so instructed her. She did not take advantage of this, however, and testified: My name is Johanna Bocker, I live in the Eleventh Ward, Salt Lake City; I keep house for myself; an old lady, Mrs. Younger, lives with me; Mrs. Hellsrom and another person whom I do not know, lives in a part of the house; I am not now married; was married years ago; I do not want to state where my husband is; he is not dead; I cannot answer where he is, because I do not wish to; he is the defendant; was married twelve years ago; have no children; we never lived together; I lived with my mother; she is dead two years; Mr. Anderson has never been to my house; I work at his tailor shop; have been employed there the last four or five years; he pays me \$3 per week; that is all I get from him, and I keep myself on it.

Mr. Rawlins wanted to know if the way the lady earned her clothing was any evidence against the defendant.

Mr. Peters said it was to show how she was supported.

Witness, continuing: I sometimes get extra money for working for other parties; I never call myself Mrs. Anderson; I supported myself and he has not lived with me during the past five years; he never called me his wife; I never called him husband; he calls me by my given name; we have not occupied the same bed during the past five years; he has not been in my house for over four years; I do not know where he lives; I think the home where his wife lives is on Plum Alley, but could not be positive; I don't know whether he lives at Anna's or not, of my own knowledge; have never seen him there; may have seen them out in public; I suppose he belongs to the "Mormon" Church; that is my understanding; I think he has four children, but I have only seen three; I guess they live with their mother, whom he recognizes as his wife; I am not now his wife.

Mr. Clarke: When were you divorced?

Objected to; objection overruled.

Witness, continuing: The defendant, four or five years ago, told me of the Edmunds law, and we separated then, so we would not get into trouble; before then he used to come to see me; he does not pay me wages when I do not work; I was working in the shop when Mr. Anderson was arrested; have not talked with him about my testimony; I never lived in the shop.

Boman Cannon was called; he was not present.

The court took this occasion to remind the deputies that when they knew they were wanted as witnesses they should be on hand. They had kept the court waiting more this term than had all other witnesses together.

Mr. Cannon came in shortly after, and testified that he arrested the defendant at his tailor shop; there was a lady there who was claimed to be his second wife; the defendant stated that he had only lived with one wife, Miss Bocker was working in the shop.

The case rested with this evidence, and Mr. Peters asked that the jury render a verdict of guilty. He held that the defendant had had a plural wife; the relationship had been established; she had worked at his shop during the past four years; and that was sufficient to make out the offense.

Mr. Rawlins took an opposite view. The testimony of Miss Bocker was all there was and she had testified that there had been none of the elements of cohabitation, notwithstanding the right cross-examination she had been subjected to by the prosecution. The jury could not draw a conclusion directly opposed to all the evidence in the case.

Mr. Clarke said the flaunting of the polygamous relationship was the gist of the offense. In this case the second wife had been recognized as a second wife before the law was passed, and since then she had been employed in the defendant's shop, and consequently he was guilty.

The Court charged the jury that if they believed that the defendant, having a lawful wife, whom he claimed as such, lived and associated with a polygamous wife, as such, and under such circumstances as indicated to the world that they were husband and wife, they should find him guilty. The mere fact that she was in his shop as an employe was not sufficient for conviction.

It must be shown, to obtain that result, that the association was as husband and wife.

A verdict of guilty was returned in the case, much to the surprise of all, as the evidence and charge had been so directly opposed to such a conclusion.

Mr. Rawlins immediately moved for a new trial on the ground that the verdict was contrary to the law and the evidence. The Court said he desired to refer to some of the testimony, and the motion was taken under advisement till Monday.

The case of the United States vs.

CHARLES LIVINGSTON,

of the Eleventh Ward, this city, was called and a jury impaneled. There were three indictments under the illegal "segregation" process, against the defendant, two of which were dismissed.

Mr. Livingston was himself sworn, and testified: I am the defendant in this action; my lawful wife is named Jane Horrocks Livingston; my second wife is Ellen Horrocks Livingston; during the year 1888 both wives lived in the same house with me; each wife has her own apartments; I have acknowledged them both as my wives, and still do; I lived with my second wife; I associated with my first wife as a wife; she is in poor health; married Jane in 1861 and Ellen in 1867.

To Mr. Moyle: My condition was such that I could not separate them; I do not offer this as an excuse; my first wife is an invalid.

The case was given to the jury, who returned a verdict of guilty.

Sentence will be passed on October 14th.

Court then adjourned till Monday.

FROM MONDAY'S DAILY, OCTOBER 3.

Logan Temple.

We are requested to state that the Logan Temple will close on Saturday, October 1st, and open again on Monday, October 10th.

Notice.

The St. George Temple will open for ordinance work on Tuesday, the 16th of October, 1887, at 9 a. m.

JOHN D. T. McALLISTER.

Arrested and Escaped.

On Saturday Robert Parker, of the co-operative store at Washington City, was arrested by Deputy Armstrong, on the charge of polygamy. Shortly afterward, while he was in a room, in custody of the officer, Mr. Parker made his escape by getting out of the window, and has not since been rearrested.

Miss Sena Madsen, the young lady who was arrested in this city, and who was alleged to be Mr. Parker's plural wife, was released from custody on Saturday evening.

A Grandson of Sidney Rigdon.

This afternoon we received a call from Mr. Sidney R. Ellis, who is a member of the Scanlan Company, which opens at the Theatre to night. Mr. Ellis is a grandson of the late Sidney Rigdon, who figured conspicuously in the early history of the Church and was well known by many of our older citizens. He was with Mr. Rigdon at the time of his death. He gave him his Book of Mormon and shortly before he expired he said to his grandson—"Sid, my boy, the doctrine of the Church is true." He also related to him many interesting incidents connected with his career in the Church. Mrs. Rigdon, who died some years afterward, spoke in a similar strain.

Supreme Court.

The following business was transacted in the Territorial Supreme Court on Saturday afternoon:

Redden vs. Union Pacific Railroad; judgment and order affirmed; stay granted until Oct. 17, 1887. Opinion by Henderson, A. J.

Levy vs. Salt Lake City; judgment and order affirmed. Opinion by Henderson, A. J.

United States vs. Church of Jesus Christ of Latter-day Saints. Motion for receiver to be appointed to be heard on Oct. 17.

United States vs. Perpetual Emigration Fund Company, et al. Same order.

O. W. Powers and J. W. Clarke were admitted to practice in the Supreme Court.

Adjourned until October 17th, at 10 a. m.

TO THE "PEN."

Two More "Mormons" Sentenced by Judge Zane.

This afternoon, in the Third District Court,

EDWIN RUSHTON,

of the Fifth Ward, this city, was called to receive sentence for living with more than one wife.

Mr. Peters stated that Mr. Rushton was subject to spells of sickness, and had given the officers no trouble. He suggested these facts for the court's consideration.

Brother Rushton, in reply to questions by the Court, said he could not promise to obey the law; such a thing would be folly to him. He was suffering from ill health, and had had one apoplectic stroke. After some further

questioning as to his means, the defendant was sentenced to imprisonment in the penitentiary for four months and to pay a fine of \$50 and costs.

HYRUM H. EVANS,

of the Sixth Ward, this city, was next called for sentence for a similar violation of the Edmunds law. He stated that he had no promise to make as to his future conduct, and was sentenced to imprisonment for six months, and to pay a fine of \$50 and costs.

WAS IT MURDER?

A Shooting Case That Should be Investigated.

The News of Saturday last contained a statement headed "Mysterious Disappearance," relating the circumstances attending the departure, and describing the person, of Gavia Johnston, the missing man.

This morning we were reliably informed that a party of young men returning on the 19th ult. from East Canon, where they had been rusticated, called at what is known as the "Hall-way House," in Parley's Canon. While there they were told that a man had been shot the night before at Dudley's, near the mouth of the canon, by a young woman who served in the saloon there. On arriving at Dudley's they met the brother of the young woman referred to, who informed them that a man, answering the description given and mounted on a mule, had been there the day before, and that he tried to effect an entrance into his sister's room when she shot him in self-defense, the bullet taking effect in his arm, whereupon he mounted his mule and rode away. This is reported to have occurred on the night of the 18th of September last, the same day that the missing man left Sugar House Ward on his way to the sheep ranch of Mr. Cohn in the Cottonwood hills. It is possible that the wound referred to may have penetrated farther than stated and that death has resulted from it. It is furthermore possible that a murder has been committed. It is to be hoped that those whose duty it is will make such a thorough investigation of the case as to dissipate the cloud of mystery that at present enshrouds it.

The Fire.

A few minutes before 5 o'clock on Sunday morning the nightwatchman discovered smoke issuing from Thomas Carter's gun store on East Temple Street, and gave the alarm of fire. In a remarkably short space of time the firemen and hose cart were at the place, which was broken into, and the flame was quickly extinguished. The fire originated in Mr. Olson's tailor shop, over the gun store, and from its location it is supposed it was started either by some fire left in the tailor's goose-iron or by coals from the stove. It had evidently been smoldering all night in the cloth in the tailor shop, and had burned through the double floor to the room below before being discovered. Fortunately it had not communicated to where the ammunition was located in the gun store. The firemen exercised care to prevent any more damage than was absolutely necessary by water, but notwithstanding this, the destruction by water will amount to half of the total loss, about \$300, one-half of which falls on Mr. Olson and the other half on Mr. Carter.

MARRIAGES.

ARBOGAST-WERRICK.—At Akron, Ohio, September 22nd, 1887, by the Rev. Dr. Young, at the residence of the bride's parents, George Arbogast, of this city, and Jessie L. Werrick. No cards.

MITCHELL-LENNARD.—In this city, Sept. 29th, 1887, Mr. Robert G. Mitchell and Miss Sophia Lennard, Bishop Orson F. Whitney performed the ceremony.

DEATHS.

ROYLANCE.—At Springville, Sept. 23, 1887, of dropsy on the lungs and old age, J. Roylance, aged 79 years, 10 months and 3 days.

Decensed was born at Plover, Cheshire, England; joined the Church at the same place in February, 1840; emigrated in the spring of 1841, crossing the sea in the first organized company that left Liverpool. He lived in Nauvoo until the exodus; enlisted with the "Mormon Battalion," rejoined his family at Council Bluffs in the spring of 1850, and reached Salt Lake City in the fall of that year. He became one of the first settlers of Springville, where he resided till his death.

He was honored and respected as a true Latter-day Saint, and leaves a wife, four sons and four daughters, forty-nine grand children and twenty great grand-children. —COM.

Millennial Star, please copy.

MOSER.—At the residence of Benjamin Judson, Tenth Ward, September 28, 1887, of measles and teething, Johanna Henrietta, daughter of John and Elizabeth Moser, now in Berne, Switzerland.

SNOWBALL.—At Lake Town, Rich County, Utah, September 21, 1887, May Pearl, daughter of Alfred W. and Elizabeth Snowball Nebeker. Born September 20, 1887.

DEWEY.—At Deweyville, Box Elder Co., Utah, September 18th, 1887, Harriet Dewey, wife of Bishop J. C. Dewey. She was born at Newberry, Berkshire, England; age 51 years and 2 months. —COM.

PITTS.—At his residence, in the Sixth Ward, on Wednesday, September 28, 1887,

at 10 o'clock, of liver and heart troubles, Edward Pitts. Born at Loudonport, England, Oct. 6, 1844.

JONES.—At Scofield, Emery County, Utah, about 10 o'clock on Saturday night the 17th inst., after an illness of nine weeks, Margaret, wife of Thomas D. Jones, aged 61 years.

Decensed was born in Merthyr Tydvil South Wales and was baptized in that branch and in the year 1842 and labored with others in distributing tracts and church works among her friends and has always been steadfast in her belief of all the principles of the Gospel and bore a strong testimony to its truth. Decensed emigrated from Treorky to Utah on the 23d of Oct. 1851, arriving at Provo Nov. 11th of the same year; removed to Pleasant Valley Ward. She leaves a husband, a daughter and 6 grand children, with a large circle of friends to mourn her loss. —Mill. Star, please copy.

BOHMAN.—At Sandy, this morning, at 8 o'clock, of consumption, Augusta, wife of John Bohman, aged 27 years. Decensed leaves a husband and a babe. Funeral from the residence of C. A. Carlquist, 437 s, Second East Street, at 2 o'clock to-morrow, Saturday, afternoon. Friends are invited.

BARSON.—At Clarkston, Cache County, September 25, 1887, Eliza Ann Scott Barson, daughter of John and Mary Scott. Born October 20, 1831, at Mill Creek, Utah. Decensed left a husband and three children, and was a firm believer in all the principles of the gospel. —COM.

PAGE.—At New Harmony, Washington County, Utah, Sept. 21, 1887, of old age, Margaret Nichols Page, aged 78 years, 3 months and 21 days.

Decensed joined the church in 1841 and lived the life of a Latter-day Saint up to her death. She leaves a great number of friends and relatives to mourn her loss. —COM.

HOWARD.—In Big Cottonwood, September 24, 1887, of heart disease and dropsy, Elizabeth Ann Stoker, wife of Thomas A. Howard, born at Newcastle-on-Tyne, England, on the 16th of May, 1864. She leaves one son and numerous friends to mourn her loss. —Millennial Star, please copy.

COULAN.—In the Eleventh Ward of this city, Sunday, Oct. 2, 1887, of pneumonia, Eliza, daughter of Henry and Sarah Coulam; born February 7, 1887; aged 7 months and 25 days.

FREECE.—At his residence in the Fourth Ward, Salt Lake City, October 1, 1887, of dropsy, John Freece.

Decensed was born in Herefordshire, England, November 26, 1810; embraced the Gospel in his native land and emigrated to Nauvoo in 1842. He suffered with the Saints in their persecutions in Illinois; crossed the plains in Elder Snow's company in 1848, and was one of the original settlers in the Fourth Ward of this city, where he was chosen as Counselor to Bishop Benjamin Brown, and after his death acted as Counselor to Bishop Thomas Jenkins until the ward was reorganized. His life has been exemplary, and he had an unblemished character.

He leaves two wives, twelve children, twenty-two grandchildren, and a host of friends to mourn his loss.

WARRANTS DEEDS

Providing for Requisition of Dover, as well as all other kinds of Bank forms, for sale at the DESERET News Office.

ESTRAY NOTICE.

I HAVE IN MY POSSESSION:

One red STAG, about 5 or 6 years old, slit in both ears, and branded σ in a circle on left hip.

If not claimed on or before Saturday, October 10th, 1887, it will be sold to the highest cash bidder at the E. T. estray pound, at 9 o'clock a. m.

WILLIAM HAMMOND, Poundkeeper. Mill Precinct, Tooele Co., Utah, Sept. 29.

ESTRAY NOTICE

I HAVE IN MY POSSESSION:

One dark bay or brown HORSE, about 7 years old, is shod all around, brand resembling H-R on left shoulder. One bay pinto horse COLT, about 2 years old, branded S W C on right thigh, has some white in face.

One dark iron gray yearling horse COLT, white in face, branded R R on right thigh. One bay 2 year old (past) MAKE, one hind leg has been hurt, some white in face, branded L on right thigh.

If the above described animals are not claimed and taken away within ten days from date they will be sold on Saturday, October 8, 1887, at 1 o'clock p. m., at Richfield precinct pound.

JOHN W. COONS, Poundkeeper. Richfield, Sevier Co., Utah, Sept. 28th, 1887.

ESTRAY NOTICE.

I HAVE IN MY POSSESSION:

One two year old sorrel MARE, hind feet white, and strip in face, branded on right thigh H B combined.

If not claimed and taken away within ten days from date, it will be sold to the highest cash bidder at the estray pound, Union Precinct, Salt Lake Co., at 2 o'clock p. m., October 15th, 1887.

J. H. WALKER, Poundkeeper. Union, October 1st, 1887.

ESTRAY NOTICE.

I HAVE IN MY POSSESSION:

One BUCK, large horns, branded E O on root of tail with paint, under half crop off left ear, swallow fork and small upbit in right ear.

If not claimed and damages paid before 6 o'clock p. m., Thursday, October 13th, 1887, it will be sold to the highest responsible bidder.

J. M. FISHER, Jr., Poundkeeper. East Mill Creek, Salt Lake Co., Oct. 3, 1887.