While the witnesses were out of the room, Crowther said he wanted to prove that he was not the father of the child.

Judge McKay asked the defendant if he wanted to bring that disgrace on the plural wife and her children in order to save himself, and on receiving an affirmative reply remarked to the commissioner that he would ask that the defendant be held for adultery instead of unlawful cohabitation.

Ellen G. Hefferan having arrived, she was called and testified—I was married twenty years ago to Mr. Crowther, the defendant; he had a wife then; my youngest child was born February 15, 1889; Mr. Crowther is its father; he has not been at my house for several months; he called one day since the baby was born; he does nothing for my support; he does not pretend to live with me; after he was pardoned by the President he was at my house a number of times.

At this point an adjournment was taken till the first wife and other witnesses could be found, and bail was fixed at $1500 Bondsmen were not furnished.

NOTES BY THE WAY.

Last evening I was shown some pretty specimens of marble from a claim of A. L. Jackman, of Juab, Juab County. The claim is located about five miles east of the station. The stone can be obtained in large slabs, partakes of a fine polish, and is free from flaws. If it is half as good as represented it is indeed a good thing, and should find ready demand for the many buildings contemplated in Salt Lake.

Trains have been running somewhat irregularly on the Utah Central, south of Juab, for some time.

Oasis has improved since my last visit, and as the people have better prospects for a regular and permanent water supply than heretofore, it is to be presumed that the improvement will be more apparent in the future.

Deseret has been most unfortunate in the past, but with the present water supply its future would appear to be brighter. The dam in the river which was washed out four years ago compelled the people to make other arrangements. A canal was constructed farther up the stream, and what was known as Gunnison Bend was converted into a reservoir, while a new channel was made across this bend, giving five miles of the old river bed for a reservoir. The Deseret canal is twenty-four feet wide on the bottom, its full length about twelve miles, and it covers several thousand acres of good land, on which some excellent lucern and good crops of grain are raised.

The walls of a new ward meeting house, built of brick, are erected. When completed, the building will be an ornament to the locality. The many difficulties in regard to the water question have so impoverished the inhabitants that it will take a few years to pull up again. The people are in a scattered condition; hence it is hard to inaugurate such improvements as would hasten their material advancement.

There are now six stores doing the merchandising for Deseret and Oasis, the latter place being one and a half mile east of the former, but all comprised in the one Bishop's ward.

The soil here is mostly of a sandy loam, slightly impregnated with salt, and in some places the mineral is very strong.

Stock have wintered well on the range, as a rule, though some farmers have lost heavily in the sheep herds.

There has been trouble between the sheep and cattle interests west of here, near the State line of Nevada, but so far it has been only a wordy combat. R. G. L.

DESERET, March 11.

THE WALKER ESTATE.

The dispute over the sale of certain portions of the S. T. Walker estate has been referred to several times in our court items. The status of the case is this: In Mr. Walker's will there was a provision that the executors could sell certain property at public or private sale. On this authority contracts for sales were made, subject to the confirmation of such sales by the Probate Court. When the matter came up before Judge Bartch, he refused to confirm the sale, insisting that, while the executors had a right to sell, upon the terms of the will, they should have done so upon a public notice given by advertising. The executors, under the advice of Marshall & Royle, their attorneys, took the position that the notice they had given was sufficient, as it placed the property before the public as fairly as if it had been advertised. The decision of Judge Bartch was appealed from, and the case was heard in the district court by Judge Henderson, who sustained the probate judge. An appeal was taken to the Territorial Supreme Court.

Since the contracts for the sale have been made the property has greatly appreciated, and today the estate could realize much more from it than before. But the parties who purchased did so in good faith, and but for a technicality, on which leading attorneys and the courts disagreed, would have been in full possession. The Supreme Court, seeing the position, that the issue was not between parties litigant, but between the court and others, wanted to hear some arguments in favor of the position assumed by the judges in the probate and district courts, as well as that taken by the executors and purchasers, and requested P. L. Williams to combat the propositions of Marshall & Royle. For this purpose Mr. Williams filed a brief giving his views. Marshall & Royle filed their brief in answer, meeting all of Mr. Williams' propositions.

Lawyers, like other people, sometimes make mistakes, or even become over-anxious to present their side of the case. And when they do they are frequently brought up standing by the opposing counsel. This case seems to be one in point, and the way in which Marshall & Royle impale Mr. Williams with a legal lance is worthy of a record. Here is an extract from what they say:

We observe upon Mr. Williams' brief that he appears in this proceeding as a friend of the Court.

In Anderson's Dictionary of Law *Amicus Curiæ* is defined, "A friend of the Court. Imports friendly intervention of counsel to remind the Court of some matter of law which has escaped its notice, and in regard to which it appears to be in danger of going wrong".

Rapalje and Lawrence in their law dictionary defined the same words: "A friend of the Court. A person who, being in Court and a stranger to the case then in course of discussion, gives the judge information on a question of which he may take judicial notice, *e. g.*, of an unreported decision, etc."

A very delicate position, and a very honorable position if rightly filled.

It seems to us to be a position in which an attorney should put aside self interest; and, free from all bias and prejudice, should bring to the consideration of the question involved, not so much the training and resources of an advocate who has one side of a case to take care of as a cool, dispassionate, impartial, judicial discrimination, which can see both sides of a case, and, seeing them, reach a fair and just conclusion in the premises.

If we have omitted to call the attention of the Court to a leading case, which discussed or decided the question now before this Court, Mr. Williams might well comment upon the fact, and call the attention of this Court to it as something "noticeable," if not suspicious. And Mr. Williams appears to think that he has discovered such an omission upon our part. He says "It is noticeable that in neither briefs of counsel, nor in the opinion of the Court, is the case of Larco vs. Casaneuva cited, which can only be accounted for by its inapplicability on the facts disclosed by the record." (Page 3 of Brief.) The statement that the case of Larco vs. Casaneuva was not cited in the opinion of Judge Henderson, or in our brief in this case, could only have been made because counsel had not read the opinion or the brief. The case is not only cited in our brief but is discussed, commencing on page 15 and ending on page 19.

This noticeable error of counsel might have been avoided if counsel had given heed to the wisdom of a wonderfully wise man, found in Proverbs, 18th chapter and 13th verse.

The Proverbs reads:

He that answereth a matter before he heareth it, it is folly and shame unto him.

Further on the attorneys say:

There are many things of which this court will take judicial knowledge, but it is noticeable that in this opinion Mr. Williams sets at naught the common law of the English