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LOCAL NEWS.

FROM TUESDAY'S DAILY, OCT. 13.

"Captured but not Conquered." These thrilling words, the title of a poem inscribed to Elder John Nicholson to be found in this issue, were used by him in his discourse at the Eighteenth Ward Chapel, last Sunday night. They are truly heroic, and as the writer of the verses intimates, ought to be written in letters of gold.

Prisoners Arrived.—By yesterday evening's Utah Central train from the south came three prisoners from Beaver, bound for the penitentiary—W. H. Orrick, found guilty of murder in the first degree, and awaiting sentence; John Nelson, convicted of grand larceny and sentenced to five years' imprisonment; and George Buchanan, found guilty of rape and whose punishment was also fixed at five years. Sheriff W. W. Hutchins and two deputy marshals accompanied the prisoners, who were taken to their place of confinement to-day.

Third District Court.—In the case of E. C. Cook et al. vs. M. F. Eakle, the answer was withdrawn and judgment for plaintiff as prayed was granted.

Jos. Ferton vs. Salt Lake County; referred to Geo. B. Fletcher, to take testimony and report findings.

In the case of the people vs. Robert Weston, convicted of an attempt to commit rape, a motion for a new trial was made, on the ground that the verdict was against the law and the evidence.

JOHN NICHOLSON.

HE MAINTAINS HIS ALLEGIANCE TO GOD AND FIDELITY TO HIS FAMILY.

HE JUDGE REHEARSES HIS WORN-OUT ARGUMENTS,

AND TALKS OF "GRINDING TO POWDER," BUT TO NO EFFECT.

After the sentencing of Brothers Smith and Olsen, in the Third District Court this morning, Brother John Nicholson was the only remaining one to receive judgment. There was a slight pause in the proceedings when the Court said, in a very low tone: "Mr. Nicholson."

Mr. Nicholson then arose, and the judge continued:

Mr. Nicholson, I suppose it is hardly necessary for me to state to you—you are already advised that the jury found you guilty of the crime of unlawful cohabitation. Have you anything further to say why sentence of the law should not be pronounced against you?

Mr. Nicholson then said, in a calm and deliberate voice—"If your Honor please: I will take advantage of the privilege that the Court affords me of stating my position before the Court from my own standpoint. I have been connected with the Church of Jesus Christ of Latter-day Saints for about a quarter of a century. I accepted its doctrines, including the law that is called in the Church "celestial marriage," which includes plurality of wives. At the time that I entered upon that relationship I had not the slightest idea that I was infringing upon or acting in contravention to any law made in pursuance of the Constitution of the country, the supreme law of the land. I entered into that relation in 1871, and, to give the court an idea of my position in reference to the law, I will illustrate by stating that when the Reynolds case was offered in order to test the constitutionality of the statute of 1862, enacted against polygamy, at the request of the defendant in that suit, I went upon the stand and testified for the prosecution that a con-

viction might be obtained. There is no need for me to state to your Honor that the essence of a crime is the intent to commit it. There could be no intention on my part to commit a crime in entering into the relationship which I have mentioned.

Years afterwards the Edmunds law was enacted, which made my status criminal—that is to say, from my standpoint—my conduct was made by it *malum prohibitum*, because in my opinion it cannot be made *malum in se*. That law requires that I should give up a vital principle of my religion, and discard at least a portion of my family and consequently disrupt my family organization.

This places me, as your Honor will perceive, in a very painful position; because I have a large family, and the ties which bind them to myself are sacred, and the affection which I entertain for them is deep, and I do not think that these ties can possibly be severed by any law of whatever character it may be, or from whatever source it may spring; because there are sentiments and feelings that are engendered in the human heart that the law cannot touch. I will say here, also, that the lady who would have been the principal witness in this case had I not testified against myself, stated to me that she would decline to testify against me, or do anything that would have the effect of sending me to prison. And now, after such an exhibition of devotion to me on her part, the bare contemplation of cutting her adrift is revolting to my soul, and I could not do it.

People's ideas differ in regard to what constitutes religion. Some hold that it is merely sentiment and faith, and does not necessarily embody action. I differ from this view; and I have always been bold to express my opinions on every subject without fear or favor, or hope of reward. I am of the opinion expressed by the Apostle James, who stated that faith without works is dead. The religion that I believe in is a religion that finds expression in action.

I am aware of the attitude of the Court and I presume of the country, towards the peculiar institution of religion in the Church with which I am identified, and which I have honestly accepted and have honestly practiced. It is held that this conjugal relationship threatens the existence of monogamous marriage. I must say that, judging from the attitude of this Court, which represents, I presume, the attitude of the nation, and in view of the assaults that are made on plural marriage, it appears to me that there is not very much ground for apprehension of danger in that respect.

It is also true that some people hold that my relations in a family capacity are adulterous. From my point of view, however, I have the consoling reflection that I am in excellent company, including Moses, the enunciator, under God, of the principles which constitute the foundation of modern jurisprudence.

Not to weary the court, I will simply say that my purpose is fixed and, I hope, unalterable. It is, that I shall stand by my allegiance to God, fidelity to my family, and what I conceive to be my duty to the Constitution of the country, which guarantees the fullest religious liberty to the citizen.

I thank your Honor for bearing with me, and will now simply conclude by stating that I am prepared to receive the pleasure of the Court.

While Mr. Nicholson was speaking, a deep stillness pervaded the entire assemblage, who listened with almost breathless interest to his remarks.

The Court then said—"Mr. Nicholson: You have stated your belief and convictions and feelings very candidly and honestly. I am of the opinion that you are more sincere than many of your brethren are. You state that the essence of crime consists in the intent with which the acts are performed which constitute the offense. While that is so, yet when a person wilfully violates law he commits a crime against the law and is liable to be punished. In regard to your allegiance to God, as I understand you, you place that above your allegiance to your country, the laws of your country, and you referred to the Constitution of the United States, and, as I infer from your remarks, you are acting in accordance with what your views as to your religious liberty and rights are under the Constitution of the United States. The sages of the day in which this great instrument was framed—and which instrument constitutes the foundation upon which this government stands with all of its institutions—believed in religious liberty; but they defined their beliefs, some of them, at least, among others the immortal Jefferson and men of his time. They did not understand that that instrument protected a man in committing overt acts against society, contrary to the public good; they understood that it was confined to belief and worship. But their view was that when these internal states of the soul, of the human mind—when parties chose in pursuance of such beliefs to commit acts which were injurious to society, that instrument did not protect these acts

as religion, and so Congress of the United States interpreted that instrument in adopting the law under which you have been tried, and the courts of this Territory have interpreted that law as it was understood by the founders of this government, by the authors of the Constitution of the United States, and the Supreme Court of the United States, which is the final judge, the final tribunal to determine all of these questions relating to the Constitution of the United States and the laws passed in pursuance of it, and if there is any one thing settled in this country it is that the Edmunds law is constitutional and valid. That being so, it won't do for this court, and it seems to me it won't do for anybody who claims the protection of the laws of the United States, who claims to be a citizen of the United States, to say that that law is no law and to set up his belief against it, and set it at defiance. (Waxing warm) The pathway of man through all ages is strewn with the errors and follies of those who have gone to their long account. A civilization has come on which has thrown off many superstitions. In some lands the mother sacrifices her child. The Hindoo mother casts it in the foaming tides of the Ganges, under a religious belief. Others let the car of Juggernaut roll over their bodies in pursuance of a religious belief. In other countries human beings, wives and daughters and friends are sacrificed at the graves of the departed. Under religious belief men have been broken upon the wheel, have been tortured upon the rack simply for their beliefs. Yet it will not do to say that all of these religious beliefs could be tolerated in any civilized country. Men have mistaken very often the feelings which attend certain desires for religion. In some instances they have had the feeling which tends to sexual passion, and imagined it was a communication of the will of the Almighty to the individual. They have mistaken animal passion for religion—lust, if you please, for religion—in some instances. I do not say it is so in your case, but that it is the case with many I am satisfied. (Growing warmer still.) When any man or any sect attempts to set up what they conceive to be a revelation against the laws of the country they must be prepared to take the consequences. It is thought, it seems, by your Church that there has been a communication with respect to polygamy and unlawful cohabitation from the Almighty. The civilized world have interpreted the will of that infinite Source that manifests all things—the Author of all wisdom and all power and all goodness—they have interpreted that through their intellects and through their consciences, and have said that polygamy and unlawful cohabitation are wrong. That is the expression of that infinite Source of infinite wisdom and goodness, as expressed by the intelligence and by the wisdom and the conscience of the whole civilized world. (Striking the desk with his hand) And the American Congress have taken that as the expression of the truth on this question, and I have no doubt that they are right in it; not the slightest doubt about it. I have no doubt that this truth of a marriage of one man to one woman is right. The whole civilized world, with a few exceptions, have so interpreted it. Being the truth it has survived all other contrary truths on that subject, and I have no doubt that it will stand—that it will stand forever. The stars may fade away, the sun himself grow dim with age, and nature sink in years; but that truth will flourish, as I believe, in immortal youth; and it is idle for any sect, or for any man to set himself up against this expression of the will of that infinite Source of all wisdom and all power, and say that he will not submit to that truth. If you do not submit to it of course you must take the consequences; but the will of the American people is expressed, (severely) and this law will go on and grind you and your institution to powder.

I believe I have nothing more to say. The sentence of the Court is, in view of your position, that you be confined in the penitentiary for the term of six months, and that you pay the costs of the prosecution and a fine of \$300, and stand committed until the term of imprisonment expires and costs are paid.

At the conclusion of the Judge's remarks many friends of Brothers Nicholson, Smith and Olsen crowded around them for a farewell handshaking. Mr. Nicholson, after visiting his family and numerous friends, started out for the penitentiary at three o'clock this afternoon.

ANDREW SMITH

WILL NOT RENOUNCE A PRINCIPLE OF HIS RELIGION, AND RECEIVES THE FULL PENALTY.

Of those convicted of cohabitation with their wives, whose sentence was set for to-day, Andrew Smith was the first called this morning. The Court

remarked, "This is the day set for judgment in the case of Andrew Smith," and Mr. Smith came forward and stood calmly facing the judge.

Court—Your name is Andrew Smith, I believe.

Mr. Smith—Yes, sir.

Court—You have been found guilty of the crime of unlawful cohabitation, and this morning was fixed upon for your sentence. Have you anything to say why this sentence of the law should not be pronounced in accordance with the verdict—have you anything further to say?

Mr. Smith then said, in a firm, clear voice—"If your Honor please: I have been placed on trial here for living in the practice of my religion, which I do not intend to relinquish, under any circumstances whatever, and I have no promises to make. Therefore I am prepared to receive the judgment of the court. I cannot under any circumstances give up any principle of my religion. My religion is worth everything to me, or it is worth nothing, and I am prepared to receive any judgment you may see fit to pronounce. That is about all, I believe.

Court—I understand you to state by inference that you understand your religion authorizes you and makes it your duty to practice polygamy and unlawful cohabitation?

Mr. Smith—That is a part and portion of my religion.

Court—Yes; and I suppose from what you state also that it makes it your duty to advise others, so far as you give any advice at all, to practice that?

Mr. Smith—I have not been an adviser, sir, but that is my feeling. I am not much of a preacher; but my religion is worth everything to me. As I said before, I could not sacrifice that under any consideration whatever.

Court—Well, I have so often stated here from this bench that polygamy and unlawful cohabitation are crimes under the laws of the United States that it is hardly worth while to state it again. I presume you understand that they are both defined as crimes, and you must realize that you are not to determine what the laws of the United States are for yourself, contrary to the tribunals selected to interpret and construe the laws and to enforce them. In view of your statements the law makes it my duty to impose upon you such a penalty as may possibly reform you and may tend to deter others from like crimes against society. The object of this law is to protect society, and it is my duty to enforce that law so far as the law gives me any discretion, and use the discretion which I possess so as to accomplish the purpose and to reach the end intended by the law. You are sentenced in the penalty of a term of six months, and to pay a fine of \$300 and costs. You will also stand committed until the fine and costs are paid.

Mr. Smith then retired to his seat, and this afternoon went to the penitentiary to serve the sentence imposed upon him.

EMIL OLSEN

IS ALSO A RECIPIENT OF ALL THE JUDGE COULD GIVE HIM.

When Mr. Smith's case was concluded, the court announced, "Emil Olsen is the next," and Mr. Olsen stepped forward.

Court—Mr. Olsen, the jury to whom your case was submitted have found you guilty of the charge of unlawful cohabitation. Have you anything further to say why sentence of the law should not be pronounced according to law?

Mr. Olsen—No, sir.

Court—Nothing further to say?

Mr. Olsen—No, sir.

Court—You have no assurance to give that you will obey the laws of the United States hereafter?

Mr. Olsen—I have nothing to say.

Court—In view of the circumstances and of the discretion which the law gives me, and of the purposes intended by the law, and the end sought to be reached by it, your sentence is that you be confined in the Penitentiary for the term of six months, and that you pay a fine of \$300 and the costs in this case, and stand committed at the end of the term of imprisonment until fine and costs are paid.

Mr. Olsen smiled and took his seat. This afternoon he also was a passenger en route to the penitentiary.

HOPT, THE MURDERER.

SENTENCED TO DEATH FOR THE FOURTH TIME—HE PREFERS TO BE SHOT.

At the hour of opening the Third District Court this morning, the court room was filled with a large audience, who had assembled in anticipation of the interesting proceedings.

When the court was called to order, the Judge asked: "Mr. Varian, have you any business for the court this morning?"

Mr. Varian stated that to-day had been appointed for pronouncing judgment in several cases, among them that of Fred. Hopt, convicted for the fourth time of the murder of John F. Turner, son of Sheriff Turner, of Provo.

The prisoner Hopt was brought into Court and took his seat between the attorneys appointed to defend him, Messrs. Williams and Sheeks, with whom he held a short consultation. His countenance wore an expression of stolid indifference, and when the Court said, "Mr. Hopt, will you stand up?" he arose from his chair and stepped forward to the clerk's desk, to receive judgment, during the pronouncing of which he remained perfectly calm, there not being the movement of a muscle to indicate the slightest trepidation at the gravity of the position he occupied.

The Court then continued: "You are aware, Mr. Hopt, that the jury that tried you found you guilty of the crime of murder in the first degree. Have you anything to say why the sentence of the law should not be pronounced against you?"

Hopt—Since my case is not finally settled—not out of proceedings—I have still to say I am not guilty of the crime.

Court—You were indicted by the grand jury of this district for the crime of murder in the first degree, have been tried by jury in the manner provided by law, and have been found guilty of that crime. The penalty affixed by the statute for the crime of which you have been convicted is death, and must be inflicted by hanging you until you are dead, or by shooting you, at your discretion. Which mode of death do you elect to be inflicted upon you?

Hopt—I choose to be shot.

Court—It is the judgment of this Court that you, Frederick Hopt, indicted in the name of Frederick Welcome, be taken from hence to some place of confinement, until Tuesday, the 24th day of November next, and between the hours of 10 o'clock in the forenoon and 2 o'clock in the afternoon of said last named day, in the yard of the jail, or place where you are confined, or in some other private place in this Territory, you are to be shot until you are dead. That is all.

Hopt was then removed from the court in charge of the officers and was returned to the penitentiary for safe keeping.

PUNGENT PARAGRAPHS.

CREAM OF THE PRESS ELSEWHERE—CULLINGS AND COMMENTS.

A Missouri merchant has given Frank James a position as clerk. Frank ought to be able to stand and deliver equal to anybody.

The New York Tribune says "Judge Swan, of Suisun, Cal., resembles General Grant so much as to startle strangers." It would be enough to startle anybody, seeing that the resemblance is fixed in the present tense.

San Francisco Alta: "Goldsmith Maid is dead, aged 28. She was long the Maid of Honor on the turf. She began lowering the trotting record and pulled it down to 2:14½. She was in 132 races and won 92 of them. Her earnings on the track were \$240,000. She was an honor to her country." Does the honor refer to the Maid having acted well her part, or to the amount of money she won?

Lord Vivian, an advanced Church of England man, recently discharged his entire yacht crew for not attending prayers. Then the crew sued him for a week's wages, and a verdict in their favor was rendered.

Philadelphia Record: "Americans are too busy with the living to build great monuments for the dead. Within seven weeks, since the burial of the greatest Union soldier, the contributions to his memorial fund are counted in dimes, with a prospect of a speedy cessation. The patriot's memory is honored none the less because of this reluctance to carve statues and erect great monoliths." We concur. It is useless to undertake the making of substance out of sentiment. General Grant needs no monument of any kind, and his friends should ask for no other than the one already in existence.

"It transpires," says a recent cable dispatch, "that the Conservative Premier of England, Lord Salisbury, is shaping his Eastern policy in perfect concert with that of Prince Bismarck." Neither Bismarck nor Salisbury seems to ever ponder over the words which caused Richelieu so much reflection: "In silence and at night, the conscience feels that life should soar to nobler ends than power."

A town over in Nevada has a mixture of troubles. One end of the village has a visitation of chicken-pox, and the other of chicken thieves.—Ex. If the two evils could only be united, they might produce some good.