

RUDGER CLAWSON'S TRIAL.

TO-DAY'S PROCEEDINGS IN COURT—PRESIDENT GEORGE Q. CANNON AS A WITNESS—LILLY CLAWSON AND LYDIA SPENCER.

Saturday, Oct. 18, 1884. There was a good attendance of spectators at the District Court this morning, but it was materially less than the crowd of yesterday. A few minutes after the regulation hour of opening the "hear ye, hear ye," of the Court crier was heard, and the assembly having come to order, the trial of the Clawson case was resumed. The first witness called was Walter J. Beattie, who was simply required to state what time in December, 1882, the defendant left the employ of Z. C. M. I. He answered that he could tell as far as the pay roll indicated; this was December 31st. Mrs. Auer was asked for but not being present.

PRESIDENT GEORGE Q. CANNON was called and being sworn, testified as follows:

Mr. Dickson—Mr. Cannon, you are one of the First Presidency of the Church of Jesus Christ of Latter-day Saints?

A.—Yes, sir.

Q.—How long have you held that office?

A.—About four years.

Q.—How long have you been a member of the Church?

A.—About 45 years.

Q.—How long have you been a resident of this city?

A.—Thirty-seven years.

Q.—Have you ever officiated, Mr. Cannon, in the celebration of plural marriages in the Endowment House in this city?

A.—I cannot say about plural marriages. I have officiated many times in marriages.

Q.—How long since you first officiated?

A.—Oh, nearly 20 years.

Q.—Do you know if any record of marriages celebrated in the Endowment House is kept?

A.—No.

Q.—You have never seen any record?

A.—Never a record of any names. I have not officiated for many years.

Q.—When you were in the habit of officiating were records kept?

A.—I am inclined to think there were.

Q.—Have you seen them, Mr. Cannon?

A.—I have not.

Q.—At the time you officiated, the act under which the Church was incorporated required these marriages to be recorded?

A.—I do not know. I do not remember the tenor of the act.

Q.—How long since you officiated in that capacity?

A.—It is a good many years. I have occasionally officiated for friends. For instance, a man wanted to be married, and wished me to celebrate the ceremony, I have attended to it.

Q.—How recently?

A.—The last was the case of Mr. Riter and Miss Jennings.

Q.—How long ago?

A.—I cannot speak definitely. It is within two or three years.

Q.—Do you know whether any record was made of that marriage?

A.—I do not.

Q.—Is there any rule or record or book which persons about to enter marriage are required to sign before the ceremony is entered upon?

A.—I have never known of anything of the kind.

Q.—Have you ever heard that there was any such?

A.—No, sir.

Q.—Have you ever inquired, Mr. Cannon, whether a record of this marriage was kept?

A.—I have not.

Q.—Is there any means known to you by which those in authority in the Church can determine whether or not members of the faith had been married or not?

A.—I do not know any means that I can suggest. I am not familiar with any means.

Q.—If you desired to ascertain that fact in any case, do you know of any means by which you could ascertain?

A.—I do not know except by taking the words of the parties themselves.

Q.—Suppose that the alleged married parties were deceased and a question of the legitimacy of the children should arise, do you know of any means by which you can ascertain their legitimacy?

A.—Generally passed to one side. Q.—Not given to any other person? A.—I have not passed it.

Q.—Do you know, when you read from the papers, when you perform the ceremony, that there is anybody to take down the names as they are pronounced by the minister?

A.—No one in my presence. Q.—No one to your knowledge? A.—No, sir.

Q.—Perhaps not in your presence, but behind the veil?

A.—Outside the sealing room persons could not hear, and no one wrote names in my presence.

Q.—Do you after the ceremony is performed destroy the slips of paper?

A.—Yes, sir.

Q.—Do you report the names to any other person?

A.—I never did.

Q.—When parties are going into the Endowment House for any purpose—that is, to celebrate any rite of the Church, or to partake of any sacrament of the Church, is there any book, record or paper in which they are required to sign their names?

A.—I never knew of any.

Q.—Is there any case in which the names are required to be written on a roll.

A.—I do not know as to the practice now; I do not know whether there is anything of that kind. I suppose some record would be kept of endowments.

Q.—Why do you suppose so?

A.—I should imagine there should be some record.

Q.—You think there ought to be. Have you never taken pains to inquire?

A.—I never wished to be employed in that way. I prefer not to be acquainted.

Q.—That is the case with all those in authority, as far as you know.

A.—I should imagine so. (Laughter.)

Q.—If I understand you correctly, in early days when you were in the habit of officiating, a record was kept?

A.—I think so. The record I refer to is for parties who come to receive their endowments; their names I presume would be taken.

Q.—I am not informed as to what you mean by receiving their endowments?

A.—They go to pass through the house. You asked about sacraments or ceremonies. Endowments have no connection with marriage.

Q.—Do you know who was custodian of that record?

A.—I do not.

Q.—Did you ever know?

A.—Perhaps I did. I wish you to understand that I have not officiated in the Endowment House for a great many years. It is, I suppose, fully fifteen years since.

Q.—Do you believe, Mr. Cannon, that you could ascertain the whereabouts of that record, if you desired to do so?

A.—I do not think I could.

Q.—Is there any one who has the care of the Endowment House, who has the custody of the property of the Church in the Endowment House, whose duty it is to look after the house and property?

A.—There is a woman cleans the house, but who she is I do not know.

Q.—Is there any person who has the care of any property of the Church—that is in the Endowment House?

A.—I did not know of any one in those days more than I speak of, and the janitor at the gate, Mr. Thomas, where the keys are kept.

Q.—Can you give me the names of those authorized during the year 1883 to celebrate plural marriages in this city?

A.—I do not know.

Q.—You do not know the names of any?

A.—I know the names of several who might solemnize marriages, but whether they do solemnize them I do not know. There are, I say, several authorized; but I do not think, unless it be in the case of Mr. Riter, of whom I have spoken, I have solemnized any marriages.

Q.—Who else solemnized marriages during 1883?

A.—I think Mr. Taylor.

Q.—Anybody else to your knowledge?

A.—I suppose any of the Twelve have the right to solemnize marriages.

Q.—You say they have the right to solemnize plural marriages?

A.—I do not know of any distinction. Formerly the Apostles were the ones who attended to these marriages, but latterly a great many others have been authorized.

Q.—Give me the names of the Apostles.

A.—Wilford Woodruff, this city, Lorenzo Snow, Brigham City, Erastus Snow, St. George, F. D. Richards, Ogden, Brigham Young, this city, Albert Carrington, this city, Moses Thatcher, Logan, F. M. Lyman, Tooele, John H. Smith, in England on a mission, Geo. Teasdale, Nephi, and Heber J. Grant, this city.

Q.—In order to authorize a Bishop to solemnize marriage the authority must be conferred upon him by the President?

A.—Technically it ought to be.

Q.—Well, are the Bishops authorized to celebrate marriages in the Endowment House as well as elsewhere?

A.—Some are.

Q.—Does it require a special authority to celebrate marriages in the Endowment House?

A.—I do not know that it does. If they officiate there, they probably attend to marriages as well as to other ordinances.

Q.—Do you know any of the Bishops in the city that are authorized?

A.—I do not know any person who worked in the Endowment House in 1883. I expect I could probably form an idea; but from any knowledge I do not know anybody laboring in the Endowment House.

SUSAN E. SMITH

Testified. I live in the city on West Temple Street, opposite Temple Block; have seen defendant and know Lydia Spencer; have seen him at my house since last May; Lydia occupied rooms there from June last till 8 or 10 days ago; don't know where she is, she did not give up her rooms when she left; she had two rooms, a kitchen and bedroom; I saw defendant in the bedroom, which was also the sitting room; it was about midday; I think; did not see him come in or leave; don't remember seeing his picture there, never had any conversation with him.

FREDERICK CLAWSON

Am brother to the defendant; have known Lydia Spencer for about 5 years; have visited defendant at his house in the 18th Ward; met his wife there (Florence); have seen defendant and Lydia together on the streets and once or twice at the Theatre; it may have been this year; never spoke to defendant about his relationship with Lydia, nor heard anyone else in his presence speak of it; my mother's name is Margaret G.; don't know where she is; she left home yesterday; am not a member of the 18th Ward M. I. Association, nor a resident of that Ward; have visited the Association but never saw Lydia there.

MARY J. S. AUER

was recalled. She merely stated that she could not tell the names of the tenants of her house on Third South Street where Lydia once lived; they were Germans; know nothing further of my daughter since yesterday.

JAMES E. CANE,

recalled for the defense, was asked to repeat the conversation he claimed to have had with the defendant in which the latter is alleged to have admitted that Lydia Spencer was his second wife. He repeated his former statement. He was asked if anyone else was present at the time, and answered that he could not say whether there was or not; but he thought not. He was then asked if anyone was present when his second conversation with the defendant (about the first one) took place, and said he thought Orson Rogers was, and perhaps others. He volunteered having said to the defendant at this time, when the doubt was referred to. "I don't care a damn, if I am asked I'll have to tell the truth."

Mr. Bennett—"Is it not true that when the defendant said there was a 'doubt' as to what was said by him in your first conversation, that you replied: 'Well, by Jove, I don't know what you did say?'"

Witness—"It is not true."

ORSON F. WHITNEY.

said: I am a member of the "Mormon" Church. I am a Bishop in the Church, in the 18th Ward. I have been Bishop of that Ward since 1878. I do not know definitely whether the defendant was a resident of that Ward in 1882 and 1883. I had been absent for twenty-one months in England. Robert Patrick, my first counselor, acted as Bishop during my absence. I returned in July, 1883. I have been a member of the 18th Ward Mutual Improvement Association. I attended, perhaps two or three meetings during the months of February, March and April of this year. I know Lydia Spencer by sight. I do not know that she was a member of that association. I never met her there. I have known the defendant from childhood, almost. Been on friendly terms with him all ways. Have met him frequently of late years. I have never had any conversations with him as to his marital relations that I know of. Never remember to have alluded to it in his presence. Never heard it alluded to by any one else in his presence.

ROBERT PATRICK

was the next witness. I live in the city; have resided in the 18th ward 20 years; am an Elder in the Church; acted as Bishop during Bishop Whitney's absence in England, this was nearly two years; know the defendant by sight; could not say he resided in the ward then; he never spoke to me about a marriage with Lydia Spencer, nor applied to me for a permit to get married; was a member of the 18th ward Mutual Improvement Association in January, February and March last; do not know Lydia Spencer, and never saw her there that I know of; saw defendant there once, I think.

JULIETTE CROXALL.

I know the defendant and Florence his wife; don't know Lydia Spencer; lived next door to defendant in the 18th Ward; never visited them; Florence visited me, but never with defendant; never met them in company, nor defendant and Lydia in company.

HORACE G. WHITNEY.

I know the defendant; have resided in the city all my life; am intimate with the Clawson family; don't know any lady named Lily Clawson; was a member of the Eighteenth Ward M. I. Association last winter; it met once a week in the evening; know Lydia Spencer by sight; am not positive, but think I have seen her once at the Association; same as to the defendant; heard the name Lily Clawson

called from the roll; inferred it was Lydia Spencer that was meant, because it had been rumored she was defendant's second wife; this was only rumor, however; never heard her respond to the name called; but understood she had joined the society; never heard Lydia Spencer spoken of as Lily Clawson, or Lydia Clawson, or Lib Clawson, or Mrs. Clawson.

The defense objected to this evidence from where the witness said he inferred the name Lily Clawson meant Lydia Spencer, including all that he inferred and that was rumored and everything based upon the inference. A discussion of some length ensued and the evidence was ruled out. The witness went on: I did not know that the name Lily Clawson meant Lydia Spencer; never heard the name Lydia Spencer called from the roll; think I never heard the name Lily Clawson called from the roll prior to the time I saw Lydia Spencer present.

Q.—Did you ever hear her call Lily Clawson among her associates?

The question was objected to as irrelevant, but was allowed.

Witness—"To the best of my recollection I never have."

The court took recess till 2 p.m.

Saturday afternoon.

The Court was called to order about ten minutes past 2 o'clock, when the jury roll being called, William Husbands was found to be absent. He soon entered, however, and the examination of witnesses went on.

GEORGE REYNOLDS.

said: I live in the city; am a member of the Mormon Church. I hold the office of an Elder, and am a member of the Seventies. I do not know of the existence of any marriage records; heard of some in times past, but not in whose custody they were kept. They were never in my custody; I saw a marriage record some twelve or fifteen years ago in the Historian's office. Wilford Woodruff is the present historian. (A subpoena was here asked and issued for Mr. Woodruff.) That is the only time I ever saw a marriage record. I have never heard since where the marriage records are.

WILLIAM KRAUT.

I live in Mill Creek; lived in the 10th Ward, Third South, between Seventh and Eighth East, in 1883; I rented of Mrs. Auer; resided five months there; went there last fall; left this summer; I know Lydia Spencer; she occupied two rooms while I was there; I have been in those rooms; have seen defendant in her part of the house; he visited my part once; have seen him eat once in Lydia's rooms, and she was there, myself also; I was employed in that part of the house that day; never saw him coming from the house but once; never saw him in the house but once; saw him going in once before; I am a bricklayer, and am absent a good deal of the time between morning and evening.

MARY KRAUT.

Am wife of William Kraut; lived in the Spencer House with him last summer; Lydia Spencer lived in part of the house; have seen defendant there sometimes; never saw defendant in Lydia's portion of the house; saw him drawing water for her three or four times; saw him in the evening about the house, not in the morning; Mrs. Canham, an old lady lived in the house; saw defendant and Lydia coming home together one night about 9 o'clock; they went in together.

O. F. WHITNEY

was asked to testify that Florence Clawson, defendant's wife, was living in this city after this trial commenced.

MARY KRAUT,

Sister of William Kraut; have seen defendant once at the Spencer House, going out of the gate, towards noon; only saw him that once.

Mr. Dickson here stated that, as the 18th Ward Mutual Improvement books could not be found to-day, in order to save time it was conceded by the defense that the name of Lydia Spencer was not on the roll of membership of this Association; and that it was also conceded that the mother of Mrs. Florence Clawson was Mrs. Annie Dinwoodey; in this connection he wished to mention that subpoenas had been issued for Lydia Spencer and Margaret Clawson, who had not been found. He referred to this so it would be seen that the prosecution had been diligent in seeking for these parties, that any question in the minds of the jury as to why they were not present, might be answered.

Mr. Harkness replied that this case would have to go to the jury on the evidence brought before it, and that the absence of the witnesses referred to was not to be construed prejudicially to the defendant. The jury must determine on the evidence in the case, not on suppositions. The court sustained the objection made by the defense. The prosecution here rested. (3 p.m.)

WITNESSES FOR THE DEFENSE—THE EVIDENCE ALL IN—BOTH SIDES REST.

The News reported Saturday's proceedings in the Clawson polygamy trial up to 3 p.m., at which hour the prosecution rested their case, so far as examination of witnesses was concerned. The defense then began the introduction of testimony, and called in several witnesses already examined by the other side.

WALDEMAR LUND—

not Walter Melund, nor Water Melon, nor any other name published by some of our contemporaries—was the first one called. He testified to the following effect: I know James E. Caine; he was employed at the store of Spencer Clawson about three years ago; I have read the testimony he gave the day before yesterday.

Q.—I will ask you if you remember any occasion when Mr. Caine asked the defendant a question about his second wife?

A.—Yes, sir.

Q.—Can you tell about when that was?

A.—Well, I should judge it was probably about a month after the rumor was out that the defendant had taken a second wife.

Q.—That would bring it about when?

A.—Probably a year ago last April.

Q.—State to the jury the conversation that you heard between Caine and the defendant?

A.—Mr. Caine and myself were on the north side of the building when this lady known as Miss Spencer entered the store, and she walked into the office and probably remained a minute or two with the defendant. As she passed out I went to the office—I do not know what for—but while I was in the office Mr. Caine came to the side of the office and asked the defendant if that was his second wife. The defendant said: "They say so." I had no part in the conversation. Reading Caine's evidence in the paper, stating that the defendant had told him she was his second wife, brought this to my mind. I cannot tell what day of the month that was. The answer was: "They say so."

Cross-Examined: It was the day before yesterday, that I read what purported to be Caine's testimony, and prior to my being on the witness stand.

Q.—Did you not say on the stand yesterday, that you had never heard defendant or any one else in his presence, say anything about his marital relations with Lydia Spencer?

A.—I believe I did.

Q.—Why do you say now that you heard this conversation?

A.—Because I did not understand your question yesterday.

Q.—Are you a Mormon?

A.—No, sir. (General astonishment.)

Q.—Are you related to the defendant?

A.—I am not.

Q.—When did this conversation take place?

A.—I think in April, 1883; I cannot be positive, but I am sure of the conversation.

Q.—What has refreshed your memory on this matter?

A.—I have thought more of it; may have talked about it since I testified; can't remember exactly.

ORSON ROGERS,

Recalled, testified to being present at a conversation between James E. Caine and the defendant, in regard to a former conversation between those parties about defendant's second wife Decker, Caine, the defendant and myself were present; it was a little after 9 a.m., the day we were subpoenaed, Monday, I think, but am not sure; we were talking about being subpoenaed and some one said, "What do we know?" Caine then referred to the conversation he had had before with the defendant, and said that Rud had admitted to him that Lydia was his second wife. I went and told Rud of this, and he talked with Caine about it, saying that he never said she was his second wife, but only heard them say so, or some such words, in answer to Caine's query. Rud then spoke of a "doubt;" and a little later Caine said: "By Jove, I don't know what you did say."

Cross-examined—Witness repeated the conversation between defendant and Caine; Caine went out to black his boots, and about ten minutes afterwards came in and they resumed the conversation, and Caine said angrily: "I know d—d well you did say it, and if I am asked I'm going to tell the truth." Defendant then said: "If there is a doubt you might say you couldn't exactly tell what was said."

Re-direct—I said to Caine: "Jim, you ought to be mighty careful about what you say." Rud said: "If you are not certain." Caine answered: "I'm going to tell the truth; I'm not going to be thrown into the Pen for perjury." Defendant said: "If there is any doubt in your mind, you might say you did not exactly remember, or something of that kind."

Re-cross—When you cautioned Caine about being sure what he was going to testify, did you say it would not be perjury in the sight of God?

Witness (emphatically)—No, I never said such a thing in my life.

R. V. DECKER

Was next put upon the stand. He said: "I know James E. Caine; I was present at a conversation in the store of Mr. Clawson, with reference to statements that Mr. Caine claims defendant made to him prior to that time. Mr. Clawson spoke to Mr. Caine in regard to what he had heard he was going to testify to with reference to what he had told him regarding Lydia Spencer. He told him he was going to testify that he had said 'Yes' on asking him a certain question when the lady was leaving the store. The defendant said he did not say 'yes,' but that he said 'They say so.' Finally, after a while, Mr. Caine said: 'By Jove, I do not know what you did say.'"