THE MILES CASE.

THIS morning John H. Miles appeared in the Third District Court to receive sentence. The particulars in full are given below. To understand the grounds on which his counsel made the motion for a new trial, it is necessary to give the several reasons assigned, and also the instructions which defendant desired to be given to the jury and which Judge Emerson refused to present. *First* we append in full:

DEFENDANT'S INSTRUCTIONS.

The defendant asks the Court to give the following instructions to the jury:

1st.—This is a prosecution for the crime of bigamy and the defendant is charged with having *first* married one Emily Spencer and thereafter marrying one Caroline Owens, the said Emily Spencer still living.

Now in order to convict the *defendant three distinct facts* must be proven *by the prosecution* beyond a reasonable doubt, to wit:

First. That the defendant was first married to Emily Spencer as charged.

Second. That thereafter he married *Caroline Owens.*

Third. That *Emily Spencer* was living at the time of such *alleged* second marriage.

2d.—The jury are further instructed that in a prosecution for bigamy, the first marriage must be established by proof to have been a valid subsisting marriage at the time of the second marriage, and to prove this there must be evidence of a marriage in fact.

3rd.—Proof of a valid marriage involves questions of law as well as of fact, and the mere calling a woman "his wife" by a person charged with bigamy, is insufficient in law to prove a marriage; the *fact of* a marriage having taken *place* between them must be *proven.*

4th—The first *marriage* and its legality must *be* affirmatively proved by *evidence* beyond the *mere declarations, confessions, admissions or* reputation of the defendant, and if the jury believe from the evidence that there is no proof that defendant and Emily Spencer were ever married, beyond the mere admissions confessions, or declarations of the defendant, then they will find the defendant not guilty.

5th—Beyond the fact of a valid marriage the jury must also find from the evidence beyond a reasonable doubt, that the alleged marriage with Emily Spencer, if at all, was the first marriage, and was entered into prior to the alleged marriage with Caroline Owens, otherwise the defendant is entitled to a verdict of not guilty.

6th—In prosecutions for bigamy, the mere confessions or admissions or declarations of a party are not alone sufficient evidence of the first marriage, but there must be proof of a marriage in fact, otherwise the *defendant* is entitled to a verdict of *not guilty.*

7th.—The jury are further in*structed that* the prosecution is held to exact strictness in *proving the* name of the person with *whom* the second marriage is alleged to have taken place, and if you find from the evidence that Caroline Owens is not the name of the person with whom defendant is alleged to have contracted the second marriage, then the variance is fatal and you will find for the defendant.

8th.—If the jury find from the evidence that instead of marrying one Caroline Owens, the defendant married one, Caroline Owen Maile, or Caroline Owen, by name, and in such name then the variance is fatal and the verdict will be not guilty.

9th.—If the jury have any doubts upon any of the foregoing questions to be determined by them, then the law gives to the defendant the benefit of every reasonable doubt, and if from the evidence you have any reasonable doubt as to whether the foregoing facts or any of them have been clearly proven, you will give the defendant the benefit of such doubt, and find a verdict of not guilty.

10th.—If the jury find that Caroline Owens, at the time of the alleged marriage with defendant, knew or had reason to believe that defendant had previously married another, then in contracting such second marriage she became and was an accomplice to the same.

11th.—A conviction can not be had on the testimony of an accomplice unless he or she is corroborated by other evidence which in itself and without the aid of the testimony of the accomplice, tends to connect the defendant with the commission of the offense, and the corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof.

12th.—In all criminal prosecutions circumstantial evidence of a conclusive nature may often avail where direct testimony is inaccessible, but it must be testimony not reasonably capable of any other interpretation, and must be that class of testimony from which nothing but guilt can in the nature of things be deduced. Calling a woman "a wife," and even holding her out to the world as such, is not of itself sufficient evidence of a valid marriage in cases of the kind now on trial, for it would be unsafe to permit a conviction upon any proof which is susceptible of two or more interpretations, and upon which any theory can be reasonably based of innocence of the offence charged.

We next give the defendant's reasons for the

MOTION FOR A NEW TRIAL.

The defendant assigns the following reasons upon which he would rely on his motion for a new trial, and on appeal to any court if such motion is denied, to wit:

1st.—The Court erred in allowing the attorney for the United States to ask the jurors or any of them if they believed in polygamy or that he or they belonged to the Mormon Church, or allowing any questions as to the religious belief of any juror.

2nd.—The court erred in appointing triers to try the challenge of the United States District Attorney to any and all of the jurors mentioned in the foregoing statement.

3rd.—It was an errer for said triers to inquire into or consider the religious belief of any of the jurors.

4th.—The Court erred in allowing witness Mrs. M. J. Foreman to relate a conversation *between Miles*, defendant, and Carrie Owens in order to prove a marriage with Emily Spencer; and the Court erred in allowing the question, "I ask you if you heard this said by Miss Owens, 'If she is your wife, what am I?'" and also allowing the same questions to be asked of witness Miss Foreman.

5th.—The Court erred in allowing in evidence any declarations or admissions of Miles, made at the house of Angus M. Cannon on the evening of the alleged dinner party.

6th.—The Court erred in ruling that the *mere calling* a woman "wife" by defendant was admissable to prove a marriage with her.

7th.—The Court erred in allowing the questions to witness D. H. Wells, as to the description of the dress or robes of persons visiting the Endowment House.

8th.—The Court erred in allowing witness Carrie Owens to be sworn, as she is the alleged second wife and so far as appears the wife of defendant Miles, and no first marriage or other marriage of defendant *Miles* was proven to the Conrt or jury; that admissions or declarations alone can not prove a marriage, in a case such as the one at bar, and that Carrie Owen was an incompetent witness and disqualified from testifying at this stage of the case.

9th.—The Court erred in excluding the proper testimony of witness Mrs. Sarah Cannon, when the defendant proposed to show that there was a marriage with Carrie Owens, and that defendant and Carrie as husband and wife slept together at the house of witness on the night of the marriage. And the Court erred in excluding the testimony of same witness that Carrie Owen sent for defendant Miles, as her husband, and said he was her husband.

10th.—The Court erred in its instructions to jury, and said instructions are against law.

11th.—The Court erred in giving the first request asked for by the prosecution.

12th.—The Court erred in giving requests Nos. 2, 3 and 4 asked for by the prosecution.

13th.—The Court erred in refusing and failing to give instructions Nos. I, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 asked for by the defendant.

14th—The evidence was insufficient to sustain the verdict, and the same was against the evidence in this, that in prosecutions for bigamy the mere confessions or admissions, or declarations of a party are not alone sufficient evidence of the first marriage, but there must be proof of a marriage in fact, otherwise the defendant is entitled to a verdict of "Not Guilty." The evidence was also insufficient in this, that the name of the person with whom defendant is alleged to have contracted the second marriage, appears to be Caroline Owen Maile, and not Carrie Owens, as charged in the indictment, and the evidence shows that defendant married Caroline Owen Maile and not Carrie Owens.

15.—There was no evidence showing the first marriage or a marriage in fact with Emily Spencer.

Wherefore defendant John H. Miles prays the judgment of the Court that no judgment be rendered, or sentence passed herein, and that said verdict be set aside and a new trial granted herein.

TILFORD & HAGAN,
and W. DUSENBERRY,
Att'ys for Def't.

Lastly we add a full account of the proceedings in the Court this morning:

By Judge Van Zile: In the case of the United States against John Miles, I move for judgment.

By the Court: Mr. Miles, stand up.

By Judge Tilford: One moment, your honor. Perhaps it does not devolve upon us, but we suggest that your honor first dispose of the motion for a new trial.

By the Court: I was about to do so, but I propose to follow the order laid down in the statute, to inform him of the indictment, plea and verdict and then dispose of the motion for a new trial. Mr. Miles, you were indicted by a grand jury of this district for the crime of bigamy or polygamy, violating a law of the United States against that; upon your arraignment in court you pleaded not guilty, the case went to a jury and you were convicted, found guilty by the jury. Now, have you any legal cause to show why judgment should not be pronounced against you? Now, Judge Tilford, you may refer to the motion for a new trial.

By Judge Tilford: We call the attention of the Court to the fact that we have made a motion for a new trial and filed with it a statement upon which we rely. We are not disposed, sir, to present any argument to the Court, but leave it entirely to the discretion and judgment of the Court.

By the Court; My recollection now is that there is no legal ground for new trial. I am aware of no rule of law violated in the course of the trial, and your motion for a new trial will be overruled, to which, of course, the defendant excepts. You have no other motion to make?

By Judge Tilford: No, sir.

By the Court: Have you anything to say for yourself why the judgment of the court should not be pronounced in your case?

By Mr. Miles: I presume it would not be of the slightest use. I have been arraigned, plead not guilty, and the jury have said I am not guilty, and I am here for sentence.

By the Court: You mean the jury have found you were guilty?

By Mr. Miles: Yes, that is what I meant. I hope you will spare me a lecture in the matter. I am not in a humor to receive it just now.

By the Court: I am not in the habit, Mr. Miles, in sentencing prisoners for any crime, which I have been called upon to do very often, to give them much of a lecture when they are called to the bar of the court to receive their sentence, because I am well aware that it is not a time when they feel very kindly disposed or in a mood to receive a lecture or sermon from the court, and I think in your case the most eloquent sermon I can make is the judgment I am about to pronounce. I know of nothing in your case Mr. Miles which appeals to the mercy of the court.

By the defendant: *I don't ask you for any, sir.*

By the Court: In the years that are to come, when you are serving out your sentence, unless it is reversed or modified in some respects of course you will be brought face to face with the fact that it is better to obey the laws of the land, for when a person wilfully violates the law and commits a crime, he must be held to answer, for that crime, and I trust before the years are expired, that you will have got rid of and rooted out of your mind, if it has a lodgment there now, the heresy that it is a violation of any religious liberty when a man is called upon by the commonwealth, by the government to answer for the commission of a crime. I hope that you will get thoroughly rid of any such notion as that. In your case, Mr. Miles, it is the judgment of the Court, that you forfeit and pay to the United States a fine of one hundred dollars, and that you be confined in the Nebraska penitentiary, at Lincoln, Nebraska, for a period of five years, the limit which the law fixes.

By Mr. Miles: I am extremely obliged to you sir.

By Judge Hagan: We now desire to take an appeal and desire your Honor to fix the bond on appeal.

The old bond of five thousand dollars was continued, pending the appeal to the Supreme Court of the Territory.

The case now goes to the Supreme Court of the Territory who will doubtless dispose of it during their present term. The Court is in session this week. The decision of the lower court being affirmed, which may be considered a matter of course, an appeal will then be taken we presume to the Supreme Court of the United States, when it will be seen whether the court of last resort will sustain the practice of applying a religious test to jurors, and of violating established rules of law for the purpose of vindicating the law.

Land Patents.

The following patents have been received at this office, and will be delivered upon surrender of receipts endorsed:

CASH ENTRIES.

No.	Name.	No.	Name.
945	Samuel Bell	1781	H Hodson
1007	Townsite Randolph	1782	A E Thompson
		1783	Thos R Fisher
1634	Geo B Warren	1784	Wm Norton
1489	R S Western	1786	A E Smith
1497	L A Bailey	1789	Siles S Smith
1500	James Allen	1792	Wm McIntire
1503	Wm M Evans	1794	Alva A Green
1504	E W Hunter	1801	A K Thurber
1511	Levi O Pead	1802	J R Deshazo
1514	M Caldwell	1815	O R Rockwell
1520	Peter Nielsen	1823	Foster Curtis
1528	Henry Steed	1826	Wm H Griffin
1531	Geo Taylor	1827	John Dale
1539	Joseph Hill, sen	1828	John Jenkins
1548	S W Molen	1831	Hyrum Cuftis
1551	Wm Beddow	1832	Wm F Rigby
1558	J G Bigler, sen	1834	C Brown
1633	E A Van Valkenburg	1839	Smith D Rogers
		1840	Amos Rogers
1689	George Croft	1843	Jessie Higgins
1696	W Rogers	1846	C Peterson
1713	Jos E Ray	1847	J H Brown, jr
1721	Sarah Heath	1848	Lorin Bassett
1730	Nelson Brown	1851	Geo T Adkins
1732	J N Skonson	1853	Eric J Peterson
1746	P P Miller	1855	Jos H Mellen
1747	Thos Tidwell	1861	H D Potter
1752	W Waddoups	1862	L D Burnham
1754	F P Jones	1868	James Jensen
1760	Andrew Leslie	1870	J hn I Rupp
1772	Jas Thurston	1871	Mary A King
1773	A Le Cheminout	1914	Geo Nebeker
1774	Sam'l Henrie	1925	P F B Hammer
1777	John Leak	1928	Mark Fletcher
1780	Silas M Pack	1950	Arthur Stayner.

JOHN D. NEIL, Register.

BEAVER BOARD OF TRADE.

BEAVER CITY,
Beaver County, Utah,
May 24th, 1879.

Editors Deseret News:

The following is the result of the organization of a Board of Trade for this Stake of Zion, consummated to-day, and ordered to be sent to you for publication:

Bros. J. R. Murdock, John Ashworth, M. L. Shepherd, Wm. J. Cox, Wm. Ashworth, Wm. Gillings, Henry Emerson and David Miller.

President, J. R. Murdock; First Vice-President, John Ashworth; Second Vice-President, M. L. Shepherd; Secretary, Wm. Ashworth; Assistant Secretary, S. A. Wixom; Corresponding Secretary, P. T. Farnsworth, Jr.

Representative to the Territorial Central Committee, J. R. Murdock.

Respectfully, etc.,
S. A. WIXOM,
Acting Secretary.