

FROM SATURDAY'S DAILY, OCTOBER 22.

U. S. Commissioners.

A motion was made in the Territorial Supreme Court yesterday afternoon, and will probably be granted, by the District Attorney, requiring all United States Commissioners in the Territory to keep full records in civil and criminal cases, in the same manner as justices of the peace, under the Territorial statutes, and also to give bonds in a similar amount.

Additional Petit Jurors.

An additional open venire for petit jurors has been issued by the Third District Court, returnable on Monday next, at 10 a. m. It calls for twenty talesmen, and the following have been summoned by the Marshal for the service:

Wm. H. Rowe,	Thos. R. Ellerbeck,
J. R. Winder, Jr.,	P. W. Madsen,
Joe. A. Jennings,	James Dwyer,
H. B. Clawson, Jr.,	Alonzo Young,
Nelson Empey,	Daniel S. Spencer,
T. G. Webster,	C. M. Donaldson, Jr.,
Wm. L. White,	L. S. Hills,
Geo. P. Brooks,	K. F. Neslen,
John Druce,	Joshua Midgley,
S. E. Odell,	J. A. Groesbeck,

Taken Under Advisement.

The arguments on the motion for the appointment of a receiver in the suit against the Church were terminated last evening, Mr. Peters making the closing effort on the part of the government. The matter was submitted, and the court will render a decision on Saturday, November 8th, at 7:30 p. m.

Mr. Richards asked that the demurrer be set for hearing on Monday, November 7.

The counsel for the government opposed this, and made a suggestion that if no receiver was appointed, it be permitted to go over till the first of next year.

Mr. Richards insisted on his motion. He wanted no compromise, but to have the demurrer heard and passed upon.

The defense did not propose to be silent when the demurrer came up, and wanted the government counsel to be required to meet the issue.

The court ordered the demurrer set for the date named.

THE NEW COPPER ACT.

Rudger Clawson Makes Application for its Benefits.

The Territorial Supreme Court held a session this morning, at which an application was made by Rudger Clawson to be credited with the benefits of the new copper act, for good behavior, instead of the old law, as it is now attempted to do. In other cases, in the district courts, these benefits have been refused to prisoners sentenced before the new act, which provides an

INCREASED RATIO

of commutation over that given by the construction of the law formerly in force.

The provision in the new law affecting those already under sentence at the time the law was passed, was held to be invalid in that respect in the District Courts, and the question was brought up anew to-day in the Supreme Court. The applicant was represented by Col. Broadhead, Judge Sutherland and Mr. Moyle. Judge Sutherland made the opening argument in behalf of the applicant. He claimed that the new law should be applied to Mr. Clawson's case, and that thereafter his term of three and a half years should be held to expire on the 18th of May, and the six months' term in addition thereto should have expired on Tuesday last.

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The Judge argued that the court's decisions in former cases that the law could not effect prisoners then in custody, related only to Territorial prisoners, it could not be extended to United States prisoners, but under the law of Congress of 1875, the commutation act in force at the time the prisoner's sentence expired was the only one applicable. The act which existed at the time the sentence was pronounced could not be followed, for it had ceased to be a law, but the provision that should be made to apply was that which was operative at the time the prisoner was entitled to claim the credit of commutation for good behavior.

District Attorney Peters opposed the application in a brief argument, holding that the present copper act, having gone into effect since the passing of sentence, could not be made operative on that sentence without interfering with the judiciary.

Col. Broadhead claimed that the application of the new act

DID NOT IMPAIR

an existing legal judgment. The act of Congress was made by its own provision to apply to "all prisoners who have been or shall hereafter be convicted," and said that they should have the benefit of the local commutation laws. The right of reduction of time for good behavior was fixed by Congress, not by the Territorial Legislature, and it was under the action of the former that the applicant made this claim. That law had been in force before the passage of the judgment. The prisoner could not claim a discharge, as a United States prisoner under the old copper law, because it was not in force at the time that he could present his claim. The only commutation which he could ask under the congressional act of 1875 was that allowed by the local statute at the

TIME HE WAS ELIGIBLE

to apply for it, and no other, because no other was in force. The applicant claimed his rights under existing statutes. The proposition was plain that Mr. Clawson was entitled to his discharge. The District Attorney had read from two authorities in opposition to their claim, but both those authorities had been reviewed and their bad reasoning shown in a subsequent and more careful decision rendered by the Supreme Court of Ohio.

Judge Sutherland here suggested to the court the fact that the Ohio decision, changing those quoted by the district attorney in support of his present position, had been procured through the efforts of Mr. Peters himself.

The court took the matter under advisement, and will render its decision at 4 p. m., to which time recess was taken.

At 4 o'clock this afternoon, the court refused to grant the application.

FROM MONDAY'S DAILY, OCTOBER 24.

The Murderer Arrived.

On Saturday evening Deputy Marshal W. H. Dutcher, of Illinois, arrived in this city with Ah Guoz, wanted for the murder of the Chinawoman at Alta on the 5th inst. He is now in the penitentiary, and will have an examination before Commissioner Norrell on Friday next, at 10 a. m.

Cutting Scrape.

A day or two ago, at Opher Mining Camp, Tooele County, James Kelly got into a difficulty of a wordy nature at first, with two other men, which resulted in the parties drawing weapons and some slashing with knives occurred, greatly to Kelly's detriment, who was severely cut and injured, but not, however, fatally. He was brought to the city Sunday evening and taken to a hospital, where he is being taken care of.

Arrests in the Second District.

Last Friday morning President Jesse Crosby, of Panguitch Stake, was arrested on a charge of unlawful cohabitation, at his home. He was arraigned at Beaver on the following day, and waived examination. Daniel McFarlane, recently arrested, also waived examination at the same time.

Elijah Seers, of Washington City, Washington County, was brought to Beaver on Saturday last, by deputies, on the going charge.

The Dead Miner.

Mr. Jens Olsen, of Alta, called on Friday afternoon and stated that Mr. Tassler was mistaken in two or three particulars of the information published yesterday concerning Simpson. He says that his true name was Ebenezer Simpson, that he came from London, England where he has a brother in affluent circumstances, who belongs to the Presbyterian church; that he was not in partnership with Mr. Hanford in leasing the Highland Chief, but was working for him, and that he had drawn all that was due him for his services.

From Uintah.

Hon. James H. Glines, Probate Judge of Uintah County, was in from that section to-day. He reports the people in his section of the country as feeling well. Business is brisk among them, the military post and Indian agency affording a good market for their produce. Vernell to which place the county seat will probably be transferred from Ashley's Fork, is in a thriving condition. The new Stake house is located there. Settlers are coming in very fast. The country is being shown to be a good one, the climate being very nearly like that of Salt Lake Valley.

An Interesting Trip.

Brother Thomas V. Williams, of the hardware department of Z. C. M. I., returned on Saturday night from a business trip to the east in the interest of that institution. He visited all or most of the leading cities and was successful in the accomplishment of his object. While in the east he took occasion to visit his son, Elder Thomas A. Williams, who is laboring as a missionary in the Southern States. He met him at Cherry Creek, Maryland, where a branch and Sunday school have been organized, Elder Williams having baptized over twenty people in that district. The father filled an appointment made by the son for him to preach, and had a very pleasant time among the Saints there.

Funeral Services at the Grave.

On the 20th inst. Percival Woods, a bright and amiable boy, son of W. W. Woods, Esq., aged nine years, died of diphtheria. The father was absent from town at the time, and the remains were placed in a receiving vault until yesterday when they were deposited in a grave in the City Cemetery. When the grave had been filled, funeral services were held beside it. Rev. Mr. Thrall conducting them. Members of the G. A. R. acted as pall bearers. After the reading of the funeral service by Mr. Thrall, Bishop O. F. Whitney delivered a brief consolatory address. President D. H. Wells dedicated the grave, and Prof. E. Beesley conducted the singing. The bereavement of the

parents in the loss of so promising a son is peculiarly severe, and they have the sympathy of a large circle of relatives and friends.

Third District Court.

Proceedings before Judge Zane to-day:

United States vs. Rodney C. Badger; unlawful cohabitation; sentence deferred to Nov. 21st.

An open venire for twelve jurors was issued, returnable to-morrow at 10 a. m.

On the venire of twenty names, returned this morning, five jurors were sworn, twelve excused on the oath and three for other reasons.

L. B. Mattison vs. Benjamin Johnson; dismissed.

John H. Jones and Charles L. Allen were admitted to citizenship.

United States vs. Peregrine Sessions; unlawful cohabitation; plea of guilty; fined \$150 and costs.

J. A. Lawrence vs. Park Mining and Milling Company; on trial before a jury.

Only a Fine Imposed.

In the Third District Court this afternoon, Peregrine Sessions, the pioneer settler of Bountiful, Davis County, was arraigned on an indictment charging him with unlawful cohabitation, and entered a plea of not guilty.

District Attorney Peters stated that the defendant was 73 years old, and exceedingly feeble, being a severe sufferer from asthma; he had married two of his wives in Nauvoo, Illinois, over 40 years ago; the other two he married in Utah, the last in 1858; he was now living with one of those who became his wives in Nauvoo, the other being dead. In consequence of his enfeebled condition, Mr. Peters recommended Mr. Sessions to the court's leniency.

The court asked a question relating to the ability of the defendant to pay a fine, and then ordered that he be fined \$150 and the costs of the prosecution.

SEVERE ACCIDENT.

A Boy has Both of his Legs Broken.

Yesterday afternoon three boys, Martin Schell, Frank Cope and Thomas Davis, were on the side of the mountain at Jones' Mine kiln, north of the Warm Springs. Young Davis was higher up the hill than the other two, and started a large rock—nearly two feet in diameter—down the steep grade of the mountain, as he says, to see whether it would roll into the excavation below. He shouted as the stone started, and young Cope and Schell ran to get out of the way. The latter was unable to do so, but was struck and

THROWN INTO THE AIR

about four feet. He fell to the ground, his head hitting a stone, cutting a gash at the top of his forehead, and rendered him unconscious. Some young men near by picked up the unfortunate lad and placing him in a buggy, conveyed him to his home in the Seventeenth Ward of this city, where Dr. Richards was summoned to attend him. He recovered consciousness just before being placed in the vehicle, and though it was driven as carefully as possible, his sufferings were most acute. His right knee and left ankle were crushed by the terrible blow, and he lost a large quantity of blood. His injuries are very dangerous.

GETTING JURORS.

Five Out of Twenty Secured from the Open Venire.

In the Third District Court this morning the open venire for twenty jurors was returned. Two of those served—T. G. Webster and J. A. Groesbeck—were excused. The following answered to their names:

Wm. H. Rowe,	Thos. R. Ellerbeck,
J. R. Winder, Jr.,	P. W. Madsen,
Joe. A. Jennings,	James Dwyer,
H. B. Clawson, Jr.,	Alonzo Young,
Nelson Empey,	Daniel S. Spencer,
Wm. L. White,	C. M. Donaldson, Jr.,
George F. Brooks,	L. S. Hills,
John Druce,	K. F. Neslen,
G. T. Odell,	Joshua Midgley,

L. S. Hills asked to be excused on the ground that he had been drawn on the petit jury within a year. As this was an open venire, the court refused to release him. "Any other reason?" inquired Judge Zane. "No," responded Mr. Hills, only

I DON'T WANT TO take the oath which the court prescribes." "Well, we'll come to that after a while," replied the Judge.

Mr. Peters examined the talesmen as to their statutory qualifications. Mr. W. H. Rowe being called on first. To the question, "Do you believe in the practice of polygamy?" Mr. Rowe declined to give any answer, and the interrogations relative to that doctrine were not pressed, nor were they put to any of the others summoned. The other questions were answered satisfactorily by Mr. Rowe and by each one of the remaining seventeen.

Clerk McMullan then read the oath used by the court, and distinguished from that framed by voters by being known as the "political authorities' oath."

Minus the introductory part it is as follows:

"That I will obey the acts of Congress prohibiting polygamy, bigamy, unlawful cohabitation, incest, adultery and fornication; that I will not hereafter, in any Territory of the United States, at any time, in obedience to any alleged revelation, or to any counsel, advice or command, from any source whatever, or under any circumstances, enter into plural or polygamous marriage, or have or take more wives than one, or cohabit with more than one woman contrary to said laws; that I will not at any time hereafter, directly or indirectly, or by abet, counsel or advise, any person to have or take more wives than one, or to cohabit with more than one woman, or to commit incest, adultery or fornication contrary to said laws; that I am not a bigamist or polygamist; that I do not cohabit polygamously with persons of the other sex, and that I have not been convicted of any of the offenses above mentioned."

Mr. Rowe signified his willingness to subscribe to it.

Thomas R. Ellerbeck, when called on, said, "I believe I don't want to take the oath."

Court—That is not the question. Can you conscientiously take that oath?

Mr. Ellerbeck—I prefer not to take it. If I did I believe I would keep it—at least

I WOULD TRY TO.

Court—You certainly should keep it; it would be a good thing. Can you conscientiously take it?

Mr. Ellerbeck—I hardly know how to answer.

Court—You cannot refuse to take it to avoid jury duty. You can refuse if you cannot take it conscientiously.

Mr. Ellerbeck—I don't think I will—I will not take it.

He was excused.

J. R. Winder, Jr., made no objection to subscribing to the conditions required.

P. W. Madsen said—"I'd rather not take that oath."

Court—Can you conscientiously take the oath? That is for you to determine.

Mr. Madsen—I don't know about the future. I can take it to-day.

Court—If you can take it to-day, do so. If you take it

YOU MUST KEEP IT.

Mr. Madsen—I don't think I'll take it.

Court—Do you say you can't take it conscientiously?

Mr. Madsen—No, I don't say that. I don't know about keeping it.

Court—Well, if you can take it conscientiously to-day, it is your duty to do so.

Mr. Madsen took the oath.

Joseph A. Jennings also accepted it. James Dwyer was called and said—"I cannot conscientiously take that oath, sir."

Court—Well, you are excused.

H. B. Clawson, Jr., said he could take it, but after some consideration informed the court that he could not do so conscientiously, and was excused.

Alonzo Young, Nelson A. Empey, Daniel S. Spencer, C. M. Donaldson, Jr., William L. White, L. S. Hills, George F. Brooks, John Druce and Joshua Midgley took a similar position to that of Mr. Dwyer, and were excused.

Robert F. Neslen said, Judge I can take that oath up to date. But if I take it now I must close up my business. I have no one to attend to my store. I am willing to do the government any service, but my bread and cheese is at risk.

Court—Well, if that is the case you are excused.

George T. Odell said he could take the oath.

An open venire was issued for a new list from which to select jurors.

Commissioner's Court, Provo.

The following parties were arrested at Payson on Tuesday night and brought before Commissioner Hills yesterday at 2 p. m. for examination, with a train of witnesses. They were arrested by Deputies Pratt, Redfield and others: Joseph S. Jones, German Ellsworth, John Staehli, Ferdinand Oberhauser, Henry G. Boyle and C. C. Schramm. The family of J. J. Walser were also brought to Provo. All were unlawful cohabitation cases.

Joseph S. Jones pleaded not guilty and waived examination. The commissioner would not let him off without examination to some extent.

Mrs. Alice Jones was examined; said the defendant had another wife when she married him—Cynthia Jones. (The latter was not present.) She said defendant acknowledged her as his wife, lived in the same house with the first wife and with defendant.

Deputy Redfield testified that when serving subpoenas defendant pointed out his wives and did not deny them.

Bonds of defendant were put at \$1,200, and bonds of witness \$200. The latter immediately went before the grand jury.

German Ellsworth pleaded not guilty and waived examination.

Christina Ellsworth was called. She was the legal wife. Amy Chase Ellsworth said she was the second wife of defendant. Mr. Ellsworth supported her, living with her part of the time and he acknowledged her as his wife. Bonds of \$1,200, for defendant and \$200, for Amy C. Ellsworth as a witness were given.

C. C. Schramm's case was put off till later as he does not consider himself guilty and will fight it in the beginning.

The others waived examination, but witnesses were examined as in the above cases, and were placed under bonds to appear before the grand jury.

DEATHS.

WILLIAMS—At Teasdale, Plate County, Utah, October 7, 1887, of liver complaint, of long standing, and old age, Gustavus Williams.

Deceased was born at Boston, Massachusetts, April 11, 1807; baptized February 18, 1810, by the late Daniel Spencer, and moved to Nauvoo the same year; came in President Brigham Young's company to Salt Lake Valley in 1848, and located on a lot adjoining on the south of what is now the Gruesbeck corner, Main Street, Salt Lake City. In 1863, being sorely afflicted with liver complaint, he was told by President Brigham Young that if he would go to Southern Utah he should improve in health and live 18 years longer. He removed and lived to see the prediction fulfilled. He was a member of the Seventh Quorum of Seventies, and lived as he died, a true and faithful Saint.—[COM.]

NORTH—At Mill Creek, yesterday, Oct. 17, 1887, Amanda J., daughter of O. A. and Albertina J. North, born December 23, 1885.

NOTT—In the Twentieth Ward, of this city, October 18th, 1887, of marasmus, Oliver Gertrude, daughter of Thomas H. and Sarah Ann Nott, born Jan. 10, 1887.

LAMBOURNE—In this city, October 18th, of scarlet fever, Dora Rachel A., daughter of William L. and Zina A. Lambourne, aged 57 years, 8 months and 8 days.

LAMPH—At Scofield, on October 10, 1887, of abscess of the liver, Daniel Lamph, late of Spennymoor, Durham, England, aged 55 years and 4 months.

Deceased was born on the 10th of June, 1832; baptized on the 10th of October, 1830; emigrated to Utah on the 13th of the same month, and died on the above date at the residence of his son William, after a very short illness.—[COM.]

PENDLETON—At Wanship, October 13th, 1887, a daughter of Josiah and Adelphi Pendleton, after a prolonged sickness aged 6 months and 12 days.

ESTRAY NOTICE.

HAVE IN MY POSSESSION:

One dark bay MARE, 4 years old, left hind and right front foot white, and star in forehead; no brands visible.

If not claimed before Saturday, November 6th, 1887, it will be sold to the highest cash bidder, at the estray pound Union precinct, Salt Lake County, at 2 o'clock p. m.

J. H. WALKER, Poundkeeper.

Union, October 21, 1887.

ESTRAY NOTICE.

HAVE IN MY POSSESSION:

One black MARE, 8 or 9 years old, brand resembling Q on left hip, and H on left shoulder; shod.

One bay HORSE, about 12 years old, branded T on left shoulder and vented on thigh, small C on left thigh low down, crippled on left fore leg and right hind leg. If not claimed within 10 days, will be sold on the 31st day of October, at 2 o'clock p. m., at my corral.

T. W. CROPPER, Precinct Poundkeeper.

Deseret, October 22, 1887.

ESTRAY NOTICE.

HAVE IN MY POSSESSION:

One Red HEIFER, about 2 years old; branded PC on right hip; white spots on sides, and white between front legs; also white spot over left eye.

Also a very light roan muley STEER, branded K on left ribs; red ears and nose; about 2 years old.

If not claimed will be sold to the highest cash bidder, at the estray pound, Bountiful, Wednesday, November 2d, 1887, at 10 o'clock a. m.

CHARLES WOOTTON, Butteville, October 22, 1887.

ADMINISTRATRIX SALE OF REAL ESTATE.

In the Matter of the Estate of James Duncan, deceased.

NOTICE IS HEREBY GIVEN, THAT

in pursuance of an order of the Probate Court in and for the County of Davis, Territory of Utah, made on Monday the 10th day of October, 1887, the undersigned, the Administratrix of the Estate of James Duncan, deceased, will sell at Public Auction, to the highest bidder, for Cash, and subject to confirmation by said Probate Court, on Friday, the 4th day of November, 1887, at 12 o'clock Noon, of said day, at the late residence of said deceased, at Bountiful, in the said County of Davis, all the right, title and interest that the said James Duncan at the time of his death, and all the right, title and interest that the said estate has, by operation of law or otherwise, acquired other than, or in addition to, that of the said James Duncan at the time of his death, in and to all those certain pieces or parcels of Land, situate lying, and being in Bountiful in the said County of Davis, Territory of Utah, and bounded and described as follows, to wit:

LOT ONE—Beginning at the Northwest corner stake of Block 4, Henry Tingey's survey, running thence Eastwardly 5.66 chains; thence Southerly 5.66 chains; thence Westwardly 13.30 chains; thence Northerly 2.30 chains; thence Easterly 1.60 chains; thence Northerly 3.27 chains, to the place of beginning, and containing 4 ¹⁰⁰/₁₀₀ acres of land.

LOT TWO—Lot 5, in Block 3, North Hill Creek Plat survey, and containing 92 acres of Land, together with the buildings and orchard thereon.

The above Lots will be sold separately. Terms of Sale—Cash at time of Sale. Deed at the expense of the purchaser.

For further information apply to Charles E. Pearson, Attorney-at-Law, Salt Lake City, Utah, or to

REBECCA J. POORMAN, Administratrix of the Estate of James Duncan, deceased.

Bountiful, Davis County, Utah, October 11th, 1887.