

# TESTIMONY IN THE HILTON CASE.

Attorney for Plaintiff is Called Down Very Emphatically by The Court.

## "SEALING" STILL THE THEME.

Cross-Examination of C. W. Penrose Productive of Veritable Fissile of Queries, Objections and Replies.

The cross-examination of Mr. C. W. Penrose in the Hilton-McCormick case was concluded in Judge Hall's court yesterday afternoon, but counsel for the defense desired to present a further question to the witness, so the case was continued until Monday morning at 9:30 o'clock at which time Mr. Penrose will again be placed on the witness stand.

Several lively encounters occurred between the witness and Atty. Jones during the cross-examination and on one occasion the court found it necessary to rebuke the attorney for his unbecoming attack upon the witness. Atty. Stewart interposed many objections to the manner in which the attorney for plaintiff conducted the cross-examination, several of which were sustained by the court.

One of the first questions asked in the afternoon was in relation to section 12 of the Doctrine and Covenants. Mr. Jones asked whether that was a law to the church. The attorney wanted a direct answer, "yes" or "no," but the witness replied that it was not a law.

"It is a law to the church according to its own language and import; that is my answer."

The court allowed the answer to go into the record. Attorney Jones attempted to get the witness to reply to questions comparing the weight of his opinions to that of the utterances of church authorities, but the witness said he had given no opinion of church doctrines or ordinances in this court, and the judge ruled the question out as improper. The attorney further put questions based on the presumption that the witness had testified that the Bible, the Book of Mormon and the Doctrine and Covenants were the only authorities in the church on doctrine. The witness replied he had not made any such statement but had said they were the only WRITTEN standards, and had been so adopted by the church.

Questioned as to whether the oral enunciation by President Woodruff as to the sealing of children to parents was authoritative, after the question was put in proper form, the witness answered yes, and stated further that it was by other than written standards he had been informed concerning the sealing ceremonies.

Attorney Jones strenuously objected to the latter part of his answer, but the court ruled that it should stand.

Another question by Attorney Jones was as to the number of forms or "sealings" there are relating to marriages.

"There is one for time, one for time and eternity, and one for eternity only, as I have testified to a number of times today," was the reply of the witness.

The attorney wanted the witness to state what their form was, but was met by the reply that they were sacred and not made public. The attorney asked:

"If they are not published may they not be varied in form by the persons officiating?"

The witness replied in the negative, except that each form was suited to the ceremony.

"Don't you know that there are hundreds of sealings and marriages going on in the Temple all the time?"

The witness demurred to the question in that form and asked: "Do you mean that there is a frequent performance of them?"

"You know what I mean," replied the attorney.

Judge Hall interrupted the attorney and told him that he should refrain from questions so that they would not be for the purpose of embarrassing the witness, but such as he could answer intelligently.

"I want the witness to answer the question directly, for I believe he is perverting," retorted the attorney.

The court will take it upon itself to protect a witness, and said Judge Hall, "Just the same as it would an attorney or other officer of the court. The witness has not given you cause to make such a statement concerning him, to the contrary he has shown a willingness to answer your questions in a fair and impartial manner when they are put in such a way that he can do so. You should frame your questions so there can be no misunderstanding as to your intention."

After framing the question differently it was answered in the affirmative by the witness.

"Don't you know that there are hundreds of people sealed for time and eternity who are not married in any other way?"

"Yes."

"They live and cohabit together?"

"Yes."

"Suppose a man and woman are sealed for time and eternity and cohabit together, do you understand under the law of the church that they commit adultery?"

"No sir, it would not be adultery," was the reply.

"Have you ever witnessed a sealing for eternity?"

"Yes."

"Will you state some instance, when, where and who the parties were?"

The witness declined to answer the question and was upheld in his action by the court.

During the cross-examination the witness was interrogated by Atty. Jones as to the probity of Daniel H. Wells and whether he could be likely to attempt to deceive. The answer was that Daniel H. Wells was a man of integrity and probity and would not do so wilfully and intentionally.

Judge Hall in this afternoon hearing arguments on the demurrer and a motion to dissolve the injunction in the case of Sarah A. Gibbs et al. vs. the Rio Grande Western Railway company et al. The action was brought to enjoin the defendants from laying additional tracks on Fifth North street from North Temple to Fifth North street, and thereby practically closing said street to the public.

Bill Was Overlooked.

Suit has been filed in the district court by the Wood Creek & Produce company against A. J. Davis and the Utah Savings & Trust company to recover \$136.31 alleged to be due for mer-

It is much to be able to get Schilling's Best at your grocer's; your money goes twice as far, and comes back if you want it.

chandise sold to Beardsley's Tavern at the time Davis was receiver of the same. It is claimed that the receiver did not include plaintiff's account in final settlement of the receivership affairs in the court and hence it was never paid. The trust company has made a defendant in the action for the reason that it was security on Davis' bond.

**Suit Over Water Right.**

Yesterday afternoon Thomas and Ellen Wildon filed a suit in the Federal court against Isaac Edwards et al. for \$500. The suit is a result of a dispute over water rights. The plaintiffs claim that two years ago they received permission to use water from Indian Creek springs in Summit county for irrigation purposes. They made ditches running over the Utah line into Wyoming. After that the defendants secured the land from the government and objected to the plaintiffs using the ditches.

**Damage Suit Against S. P.**

The damage suit of L. B. Hammond of Roy, Utah, vs. the Southern Pacific Railway company for \$15,000, was the only case before the Federal court yesterday. The case was continued this morning. The plaintiff is a sheepman and alleges that about a year ago he made shipment of sheep over the defendant company's line. While riding on the cupola of the caboose the train broke in two and Hammond was injured and some of his stock was killed.

**Suit Against the Sunshine.**

The Salt Lake Hardware company filed suit in the district court today against the Sunshine Gold Mining company to recover \$375.43, alleged to be due for merchandise sold to defendant between Aug. 3 and Sept. 24, 1903.

**Title Quieted.**

Judge Hall this morning rendered a decree in favor of plaintiff in the case of J. T. Stringer against J. W. Losh, Mary Losh, J. M. Stout and P. T. Elwell, quieting plaintiff's title to lots 30 and 31, block 2, Archer & Kullak's subdivision of block 45, plat C, Salt Lake City survey.

**PROBATE COURT.**

Will of Geo. Good, Deceased, Admitted—Petition Granted Steele Family.

The will of George Good, deceased, was admitted to probate today by Judge Hall and Celestine Good was appointed executrix without bonds, as provided in the will. The estate is valued at about \$8,000. The will of John L. Beckett, deceased, was admitted to probate and Ada M. Beckett was appointed executrix without bonds, as provided in the will. The estate is valued at \$3,000.

**COURT NOTES.**

A \$10,000 damage suit was filed in the district court today by Amelia Gorman against the Southern Pacific company to recover that amount for personal injuries alleged to have been received in a collision on the company's tracks near Beardsley, Nev., on the evening of Oct. 1, 1903. Plaintiff alleges that she was bruised about the head, shoulders, hips and spine, and that her injuries are permanent. She claims that the collection was due to negligence on the part of defendant.

**LOAN TO BE PAID OFF.**

The state board of loan commissioners today authorized State Auditor Tingey to pay off the recent loans amounting in all to \$150,000, which were made to tide the state over until the taxes came in. The money was borrowed from local banks (instead of from eastern firms. One-half of the above amount will be paid on Nov. 15 and the remaining half on Nov. 21.

**TEACHERS GET SALARIES.**

Clerk J. B. Moreton of the board of education, is today paying the salaries of the principals and teachers of the city schools for the second month of the school year ending Nov. 4. The amount of the payrolls is \$23,605.93.

**AS PER ENGLISH POLITICS.**

Manner in Which University Student Body Will Elect a President.

Considerable interest is being manifested at the University of Utah, over the election of a president of the student body, this having been made necessary by the adoption of a new constitution a day or two ago. The students, it is understood, have agreed to divide on party lines as per English politics. Accordingly, the liberals got together this afternoon and mapped out a plan of campaign. Mr. Hopkins acting as chairman. This party is supporting Oscar W. Carlson, while it is said that the Conservatives will support Elbert Thomas. A secretary will also be elected, as well as member of the athletic council, and the vote will be taken in the usual way, the students registering and casting their ballots for the respective candidates.

Instructor Will Hay made his first appearance at the university today since undergoing an operation for appendicitis. He is quite weak yet but hopes to resume class work in a short time.

The promised football game between the faculty and students, booked for this afternoon, has to be postponed on account of the condition of the campus. It will be played some time next week.

## Tonight

If your liver is out of order, constipated, Biliousness, Sick Headache, Heartburn, or Constipation, take a dose of

## Hood's Pills

On retiring, and tomorrow your digestive organs will be regulated and you will be bright, active and ready for any kind of work. This has been the experience of others; it will be yours. HOOD'S PILLS are sold by all medicine dealers. 25 cts.

# BACK FROM THE RESERVATION.

Government Survey Engineering Corps Returns for the Winter From the Utah Work.

## SOME TALL FISH STORIES.

Col. Dick Pleads Guilty to Catching 97 Trout in One and a Half Hours.

The advent of winter has brought back to this city Engineers Brown, McKinn, Trotter, Johnson, Dick and Merwin from their work of surveying on the Utah reservation for the government. They had the work on the higher lands, and so are back earlier than other parties of surveyors who took the lowlands and valleys. The above surveyors were in the field for three months and covered 1,200 miles with the chain, about one-quarter of the reservation, or 612 square miles. The more northern part of the reservation was gone over, and the engineers made a triangulation method of surveying which is in vogue with the geological survey. They return to complete their work in the spring. The engineers say that the country they "hoed over" looked as though the heavens had got mad and rained rocks down all over the corrugated countenance of nature as fire and brimstone was rained down from heaven on Sodom and Gomorrah. It was rocks to the left of them, rocks to the right of them, rocks, rocks, rocks, all around, and to spare. There were rocks enough to pave, it seemed, the entire state with trap rock.

When asked if any of it was good for building, they said the rock was badly broken by volcanic action; but it was a fair looking sandstone, and might do. But the best of it was at present in inaccessible places, and so was likely to remain undisturbed for centuries to come.

## PLENTY OF WATER.

The elevations are something imposing, being 9,000 to 14,000 feet above sea level, and consequently the climate is a trifle strenuous. In fact, it was always too stout for the surveyors to remain out there during the winter. However, it is a country water settling up, as there is water, water everywhere—water that could and ought to be spared for transfer to the Salt Lake basin, where it is so much needed. In one place, six miles square, there are 52 lakes. The snow fall is very heavy, so that the natural reservoirs are always full.

The fishing is something immense, and the surveyors say they will believe any fish story that is told of piscatorial performances up there. One day they caught 97 trout in one and a half hours; and it was not much of a day for trout either. "All you have got to do," he says, "is to throw your hook into the water, and trout will just jump to see which one can hook on first. No trouble catching fish in that country."

## GOLD AND BOONERS.

While the soil of the valleys is sandy, there are such unparalleled opportunities for irrigation, that a great variety and abundance of crops can be raised in the valleys. There is a great deal of timber in the hills which are numerous and lofty, if not positively superlative, and the facilities for raising are all that could be desired. The indications for gold are very fair. The government does not allow the surveyors to do any prospecting, consequently no auriferous samples were brought back, and no shafts were sunk. But the engineers saw enough of surface indications to convince them there is gold in the country, only that it will have to be dug for, and no nuggets will be found growing on bushes waiting to be picked. The engineers believe there will be a big rush of settlers for the reservation when the government throws it open next fall, as the conditions there are such as to invite a good immigration. There are not a few sooners skulking around the reservation now, but there is a squad of the Fifth cavalry on the ground from Fort Duchene, rounding up these gentlemen, and running them off the reservation.

## A GUARANTEED CURE FOR PILES.

Itching, Blind, Bleeding or Protruding Piles. Druggists will refund money if PIAZO OINTMENT fails to cure in 6 to 14 days.

## WIRES ARE DOWN.

Those Between Here and San Francisco Crippled by the Storm.

The wires were all down between this city and San Francisco this morning on account of the storm, and in connection with the coast could be restored. However, the communications with the north and east were not interfered with. This indicates that the heft of the storm prevailed to the west of the meridian. The total fall of rain in this city for the 24 hours ending this morning was .47 of an inch, and it will have to be a squall of the Fifth cavalry on the ground from Fort Duchene, rounding up these gentlemen, and running them off the reservation.

## REP. HOWELL GOES TO NEW YORK

(Special to the "News.")

Washington, D. C., Nov. 12.—Congressman Howell left for New York this afternoon to visit his son, who is attending Columbia university in that city, and will return on Monday.

## A WOMAN'S THREAT.

Mrs. Belding Arrested for Swearing Vengeance on Mrs. Child.

(Special to the "News.")

Ogden, Utah, Nov. 13.—Harry Claypool was arrested before Judge Rolapp this morning on the charge of housebreaking, to which he entered a plea of guilty. On this plea the charge of receiving stolen goods was dismissed.

Mrs. Chauncey Belding was arrested

this morning by Deputy Sheriff Belnap on the charge of threatening to shoot and kill Mrs. Sarah F. Child of Riverdale, yesterday afternoon. The complaining witness is Asa J. Child, Jr., who asked that Mrs. Belding be placed under bonds to keep the peace. The woman is the wife of Chauncey Belding, who with a man named Tappan was arrested a few days ago on the charges of burglary, housebreaking and grand larceny. Mrs. Belding and Mrs. Tappan, live in close proximity to Child's place, and it is understood, has also threatened to burn Child's home. The women it is believed, have been rendered desperate through the actions of their husbands who are now in custody, while their families are in a deplorable condition. The hearing was set for this afternoon before Judge Howell.

## SON AGAINST MOTHER.

A suit to quiet title to a piece of land situated in Ogden was filed yesterday in the district court by Claude V. Adams, through his guardian, N. H. Ives against his mother, Mrs. Amanda E. Adams. The complaint alleges that William L. Adams died leaving an estate consisting of real estate to which plaintiff and defendant are entitled each to an undivided half in the estate and plaintiff brought the suit to have his portion of the estate decreed to him by the court. Mrs. Adams filed answer to the plaintiff's complaint admitting all the allegations of the same. Judge Rolapp heard the testimony on the action and granted a decree as prayed for.

A marriage license was granted to R. R. Brown, 28, and Miss Geneva Miller, 22, both of Harrisville, Weber county.

## BRIEFS AND PERSONALS.

The police have not yet any clue as to who burglarized McDonald's grocery store Wednesday night.

Tonight George Fry were each fined \$50 having plead guilty to running a gambling house.

R. S. Farnsworth has gone to Evansville on legal business.

E. U. Butcher has been ill for several days, was able to be out again yesterday.

Jack Littlefield, son of Major E. A. Littlefield, of the Brooklyn navy-yards to training ship Santee at Annapolis.

O. O. U. W. Locs of the city gave a social last evening at their hall, on the Grand Opera House.

"Theima" will be played and tomorrow night "King Dodo."

Mrs. J. S. Noble, who has been in the case for several weeks has returned home.

Next Tuesday the Modern Workmen of America will celebrate at the K. of C. hall. The members from all parts of the state will participate in the entertainment.

R. J. Schramm left last evening for Iowa, where he will spend a few weeks.

William Talley, who returned home from England a few days ago on account of failing health, was able to be out yesterday for the first time.

Henry Ward was arrested yesterday by Officer Hart on the charge of robbing an old man, who was stopping at a lower Twenty-fifth street lodging house, of the sum of \$24. Ward is a porter at the house and took occasion to "roll" the old gentleman while he was considerably under the influence of liquor. The porter had \$13.50 on his person when arrested. The slot machine he has confessed his guilt.

This morning an Italian laborer called at a Twenty-fifth street place and asked to pass a worthless check for \$15 on the proprietor. The scheme failed, however, and while an officer was being secured the man made good his escape and has not yet been apprehended.

Queen Liluakalani of Honolulu passed through Ogden during the night en route to Washington, D. C., where she goes in the interest of the physicians of the government. She was accompanied by her staff.

John Coffin, who was stabbed by Chris Peterson at Huntsville, was brought to Ogden and taken to the hospital. George Hinsdale, 1323 Washington avenue, Coffin is subject to severe headaches and the attending physicians have made no diagnosis. His brother Charles came down from Pocatello last night and is now with him.

## PUBLIC BUILDINGS.

Senator Dubois Introduced Bill Appropriating \$40,000 for One.

(Special to the "News.")

Washington, D. C., Nov. 12.—Senator Dubois introduced a bill making an appropriation of \$40,000 for the construction of a public building at Pocatello, and one of \$20,000 for a building at Lewistown.

## FREE ROUTE FOR MIDDLETON.

A rural free delivery route will be established to the house at Middleton Canyon county, Ida., with an early carrier. Length of route, 12 miles; area covered, 34 square miles; population served, 400.

## POSTOFFICE FOR MORSE.

A postoffice has been established at Morse, Lemhi county, Ida., with Thomas E. Rose as postmaster.

## PENSIONS.

Pensions granted: Idaho—Hugh C. Clawson, \$3; Utah—Thomas J. Clark, \$3; Mina Hartviksen, \$2; Mary E. Foster, \$3.

## BRUCE JOHNSON'S DIVE.

The Scene of Another Brutal Beating Of Woman Last Night.

There was another bad mixup at Bruce Johnson's resort at 44 Commercial street, last night, during which a colored man named Fred Smith, assaulted a woman of his own color and beat her until her face resembled a dime order of a raw hamburger. The woman reported the matter to Sergeant Richard Eddington, but the latter advised her to file a complaint against Smith. The complaint is still forthcoming.

## SUDDEN DEATH AT MURRAY.

Charles Howard, an employee of the American smelters at Murray, died suddenly last night, while at work. The cause of death is not known and the smelter people are unable to locate his relatives, although he boasted he has family connections in this city. The young man is about 20 years of age and unmarried.

## SMALLPOX AND TYPHOID.

There were two cases of smallpox reported to the board of health today. They are: Joseph Birkenshaw, 628 south Sixth East, Mr. Church, 1029 east South Temple street. Both patients were removed to the isolation hospital today.

One case of typhoid fever was reported to the board also, that of Annie W. Carlson, aged 18, 812 Austin avenue.

## MAYFLOWER ARRIVES.

A telegram received at the President's office from the Dominion Steamship company announces the arrival at Queenstown at noon today of the steamship Mayflower, en route to Liverpool. The vessel was Elders William W. Phelps and Frank Reuter, Salt Lake; W. A. Wright, Ogden; Arthur W. Nelson, and John Evans, Brigham City; H. B. Nielson, Hyrum and H. L. Rasmussen of Spring City.

## Always Remember the Bull Nemo

Cures a Cold in One Day, Grip in 2 Days

# HORN AFFECTED BY DEATH WARRANT.

Twitched Nervously as Document Was Read to Him This Afternoon.

## HAS ONE WEEK MORE TO LIVE.

At Conclusion of Reading He Affected A Smile and Thanked the Officers For Their Kindness.

(Special to the "News.")

Cheyenne, Wyo., Nov. 13.—Tom Horn has only one week to live and he has been notified of his approaching doom, that he may prepare for the end. This afternoon Sheriff E. J. Smalley and Under Sheriff R. A. Proctor, released Horn from his cell and the former in impressive tones read the death warrant. In substance the document was as follows: "That you, Tom Horn, convicted of the murder of William Nickell on July 13, 1901, be taken from your place of confinement in the county jail of Laramie county to some convenient spot close by where between the hours of 10 a. m. and 3 p. m. Friday, Nov. 20, you will be hung by the neck until dead."

Horn listened to the reading of the fatal words in silence. His face took on an ashen hue at first, then a little color crept into his cheeks and his eyes flashed. His fists were clenched tightly and the muscles around his mouth twitched nervously. A great well seemed to come up on the right side of his throat and there throbbed spasmodically.

At the conclusion of the reading Horn affected a smile, thanked the officers for their kindness, mumbled something to himself and was led into the death cell, where the death watch was placed over him. Up to the hour of reading the death warrant, Horn had been as chipper as could be, but for an hour or more after the officers read he made no sounds. He was clearly broken down in mind and body, but later he cheered up a bit as the thought came to him that perhaps the governor would save him from the gallows. And then, perhaps, he thought that the assurance of his friends that they would take him from the jail by force rather than see him hang.

## A SERIOUS OVERSIGHT.

The startling discovery was made today that the attorneys for Tom Horn have filed another appeal for a new trial in the district court based on the new evidence they had gathered in his behalf since sentence was passed a year ago by Judge Scott, had they so desired.

But they were either in ignorance of the provisions of the law on the subject or for private reasons they purposely avoided taking advantage of the opportunity offered by the statutes.

It is believed that the attorneys simply overlooked or misinterpreted the full meaning of the chapter bearing upon the subject of appeals. Section 2570 of the revised statutes provides that in case of newly discovered evidence, you may, providing this new evidence could not be found prior to the date of passing sentence, make application for a new trial up to and including the second term after the case was tried.

Horn was tried at the May term of court in 1902. He was convicted and sentenced on Nov. 12, 1902, and his attorneys had just one year from date of sentence in which to file a motion for a new trial on the ground of newly discovered evidence.

The time expired at midnight last night, and Horn missed a golden opportunity to cheat the gallows on Nov. 20.

Had his attorneys filed their motion and submitted the new evidence, a stay of execution would have been granted pending the examination of the new evidence. But this cannot now be done, and unless Gov. Chauncey D. LeFlore, which is not likely, and if Horn's friends do not deliver him, which is almost impossible, then his doom is sealed and he will expire his crimes on the gallows Nov. 20.

## Amusements

The longevity of "In Old Kentucky" is the theatrical marvel of the day. Neither winds, rain, uprooted trees, floods at every street crossing, nor crippled streetcars, were sufficient last night to keep the usual immense throng away from the presentation. The owners of the popular old play are keen to realize that the value of their gold mine consists in their keeping up to the old standard, and it may be said that the rendition now is about as good as it ever was, and in some respects, notably that of the Pickaninny band, it is better the young couple brought down the house last night with their playing and the usual thrilling episodes were received with the same gusto of favor, especially from the upper sections. The play is a masterpiece of the kind. The U. S. Ned of Mr. Turner was especially good; Miss Barriacelle won favor as Maggie; and Mr. Deyo was a clever Jo. "In Old Kentucky" will be seen for the last time tonight.

## THE SALE IS NOW GOING ON AT THE

Theater for "Pickwick," the musical play to be rendered by the DeWolf Popper company at the Theater tomorrow afternoon and evening.

At the Grand last night the play entitled "In a Woman's Power," rendered by the Vidler company drew a fair sized house. The piece belongs on the stereotyped order of virtue in trouble, winning temporarily triumphant, and the here and here coming out on top in the long run. The players range from good to very bad, but the play is written for gallery consumption, and as those sections are not over critical, it will not fail to please while it lasts. It goes tonight, tomorrow afternoon and evening, being succeeded Monday by the play "The Minister's Son."

## BUSINESS NOTES.

Today's local bank clearings amounted to \$35,748.68, as against \$401,626.38 for the same day last year.

The Globe Machinery company, of this city, filed its articles of incorporation in the county clerk's office today. Its capital stock is \$10,000, divided into shares of the par value of \$1 each. C. Lenthorn is president; A. W. Stevenson, vice president; E. C. Leuthstrom, secretary and treasurer.

# Linoleum

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# H. Dinwoodey Furniture Co.

Just the Weather for a CRAVENETTE

A Light Weight Water Proof Overcoat. The cloth of these coats is of the genuine PRIESTLEY make, and they are made up by the best makers of clothing. They are cut very full and drape very gracefully from the shoulder. In length they are 51 inches, so that enables them to come right to the shoe top. We have them in several colors. Price

\$18, \$20, \$25 and \$27.