# THE DESERET NEWS.

TRUTH AND LIBERTY.

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FROM TUESDAY'S DAILY, MARCH 15

**H. F. Thorup Sentenced.**—Shortly before the hour of adjournment yesterday afternoon, Herman F. Thorup was called in the Third District Court to receive sentence, he having pleaded guilty to the charge of unlawful cohabitation. In reply to the questions of the Court he said he was a poor man, with a family of small children, and had no means with which to pay a fine. He would not violate his conscience, however, by giving any assurance that he would in the future obey the law as construed by the courts, and was sentenced to imprisonment in the penitentiary for six months, and to pay a fine of $25 and the costs of the prosecution.

**Court Notes.**—Proceedings in the Third District Court to-day:

Germania Lead Works vs. Bullion, Beck, etc., Co.; continued on motion of plaintiff, owing to absence of John Beck.

Buhring vs. Heath; dismissed on motion of plaintiff.

Francis A. Allen et al. vs. M. M. Schwartz; judgment by default.

J. A. Goodhue vs. J. E. Fulton et al.; continued until Wednesday, 16th.

The United States vs. Henry Grow; motion for new trial overruled; exception taken; sentence set for Saturday.

Salt Lake City vs. W. D. Palmer; two cases; appeal dismissed at defendant's cost.

Salt Lake City vs. C. H. M. y Agramonte; appeal dismissed at defendant's cost.

**Special Meetings.**—President Angus M. Cannon, Bishop Ezekiel Holman and Elder Francis Armstrong met with the Saints of Granite, at Butlerville, on Sunday, the 13th inst., and held two meetings, the first commencing at 10 a. m. and the other at 2 p. m.

The above named brethren addressed the people, and dwelt upon the signs of the times, coming of the Lord to reign upon the earth, which day was said to be nigh at hand, temple work, its object, viz: the salvation of the living and the dead. The Word of Wisdom was also spoken of, the necessity of being self-sustaining, purification of the Saints as contemplated in the revelation of Oct. 13th, 1882, and the redemption of Zion.

During the services Brother Alva Butler was nominated as Bishop of the Granite Ward, and was sustained by unanimous vote of the large congregation.

## A MALICIOUS SUIT.

JOHN CONNELLY AGAIN UNDER ARREST.

This morning John Connelly, who has already served one term in the penitentiary for unlawful cohabitation, was arrested, charged with a repetition of the offense. The complaint names as his wives Elizabeth Golightly Connelly and Ann Gallifant Connelly. It was made yesterday by the plural wife's brother, Bernard Gallifant. According to the statements of the defendant, Gallifant and he had a disagreement yesterday, the result of which is the present prosecution.

When Mr. Connelly was arraigned before Commissioner McKay this morning he responded promptly, not guilty. He further stated that he desired time to secure counsel. This was granted by the Commissioner, and Mr. Moyle was called in. The latter had some urgent business in the Third District Court, and asked that a postponement be had for a short time.

This Mr. Dickson opposed, as he wanted to go right on with the case. He wanted at any rate to take the testimony of David Gallifant.

Mr. Moyle demanded as a right of the defense that they be given an hour or two for preparation. He understood the prosecution was a malicious one, and wanted time to consult with the defendant, and to prepare to meet the charge.

Mr. Dickson insisted on taking testimony, and wanted Anna Gallifant sworn. Mr. Moyle still objected, and finally the District Attorney exclaimed that he wanted to examine the witnesses for the prosecution before the defendant had had a chance to talk with them.

At this unusual statement, the Commissioner asked Mr. Moyle, "Do you wish to talk with the witnesses for the government?" The counsel for the defendant, smiling at the absurdity of the proposition, responded, "Well, I don't know that I particularly care to do so."

The Commissioner then granted a continuance until 2 p.m., and cautioned the witnesses not to talk with anyone about the case. The bonds of the defendant were fixed at $1,500. Later, the case was set to come up at 3 o'clock.

## S. A. WIXOM ARRESTED.

KEPT IN PRISON — HE ADMITS THE CHARGE.

Shortly after 10 o'clock last night, Deputies Cannon and Franks reached Granite Precinct, near the mouth of Little Cottonwood Cañon, where they called at the home of Solomon A. Wixom, and arrested him on the charge of unlawful cohabitation. He was given no opportunity to furnish bail for his appearance for examination, but was carried off to the Penitentiary, where he was bunked with a prisoner held for murder. Under these circumstances it was of course impossible for him to obtain any sleep. This morning he was brought before Commissioner McKay, and listened to the reading of the complaint against him, made by E. A. Franks, and charging him with living with Amanda C. Despain Wixom and Lois O. Earle Wixom as his wives. The defendant said he did not not desire to give the prosecution any trouble and pleaded guilty. His legal wife's youngest child is between two and three months old, and his plural wife has a child two years old. Bail was fixed at $1,000 for the defendant, and $200 each for the witnesses.

## THE POSTMASTER DEAD.

WM. C. BROWE BREATHES HIS LAST THIS MORNING.

Many of our citizens were shocked this morning at the announcement of the sudden but still not unexpected death of W. C. Browe, the postmaster of this city. For a while it was not given credence to, but as time wore on the confirmation came in the festooning of black crape around the delivery window of the postoffice and from the mouths of those who were present. Mr. Browe had been ailing for several weeks, but it was not thought that anything so serious as death could result from his ailment, it being a species of blood poisoning resulting from the immoderate use of tobacco; in fact, the supposition was that with the excellent medical treatment he was receiving, only abstinence was needed to bring him back to a normal condition and that he would soon be up and at his duties as usual. This, however, was not to be; the complaint had taken a deadly hold upon his system, and after fluctuating more or less, demanded and received its victim at 6:45 this morning.

Mr. Browe was 48 years of age on the 7th of last December. He was born in Newark, N. J., and came to Utah from Denver some years ago, first as city ticket agent of the Denver & Rio Grande Western Railway Co. He was appointed postmaster of Salt Lake City by President Cleveland in December, 1885.

He leaves a wife but no children. He was greatly respected, not merely because of the splendid working system he inaugurated and maintained, but also on account of his own affable disposition and the good character and qualities of those he employed as his assistants.

## FATAL ACCIDENT.

JOHN LIVESEY INSTANTLY KILLED WHILE AT WORK IN A WELL.

About half past 5 p. m. yesterday Coroner Taylor was notified by Officer Malin that his services were required in the Tenth Ward, where a man named Livesey had been instantly killed while engaged in walling up a well on the premises of Wm. Stone.

On arriving a quarter of an hour later at the residence of the deceased on Third South Street, between Seventh and Eighth East, he found a crowd of people collected about the premises anxious to learn the name of the deceased and all the circumstances pertaining to his sudden death.

On an improvised stretcher in the front room of the cottage, facing north, lay the mortal remains of what, only about three hours before, was the well known and generally respected John Livesey. As his his body lay quietly extended on the bed of death a pleasant expression rested upon his comely countenance, and were it not for two or three red and angry looking wounds upon the left side of his face, the visitation of death might easily have been mistaken for that of peaceful sleep.

Officer Andrew Smith, Jr., had summoned for jurors in the case J. H. Freeman, John A. Hillstead and J. B. Taylor. After the jury had been duly impaneled and the witness sworn the investigation began as to the cause of death. The first witness placed upon the stand was James W. Ashman, who stated that the deceased came to his death about 3 p.m., on the premises of Wm. Strong, situated on Fourth South Street, between Eighth and Ninth East. Witness stated that he had been engaged by Mr. Strong to assist in the work of walling up a well upon his premises. The well was about fifty feet in depth, and the rock had been laid to within about twenty-three feet of the surface. Deceased, who had taken the contract for the work and had charge of it, was engaged in laying the rock, and it was witness' duty to assist in lowering it as required, and he worked the windlass, with the assistance of Heber Strong, who held a strap over the cylinder in such a manner as to prevent a too sudden descent of the loaded box by means of which the rock was lowered to the workman below.

Deceased was in the well sitting on a two-inch plank placed crosswise and resting at either end upon the rock wall of the well, with his feet braced for greater security, against the wall. While deceased was working in this position witness was engaged in lowering the box, which contained four pieces of rock. When the box had descended about ten feet, as near as he could judge, a piece of ¾-inch rope, which supported the box, broke short off, liberating the rock, which fell with great force directly upon the deceased, killing him by the force of the blow and hurling his lifeless body some twenty-five feet to the bottom of the well.

Heber P. Strong was the next witness called, who corroborated the statement of Mr. Ashman, and added that on the rope breaking he looked down the well, but could discover nothing distinctly except the splashing of the water which was occasioned by the fall. He stated that it was about half an hour from the time the rope broke until the body was recovered, and that Mr. Cater was the man who went down after it. He also testified that deceased was a well-digger by profession, and that he (witness) had called attention to the rotten and dilapidated condition of the box, and, two of the bottom boards being broken, witness had put in another short piece of board for fear of an accident. The box was of plain pine and about two feet square, with two pieces of rope reaching round it underneath, to which the well rope was attached above. These pieces were covered with leather in order to protect them from being chafed by contact with the rock. The box had not been used for about six months before and the part of the rope which was covered, being damp, had become so rotten that it could be pulled to pieces with the fingers, although the rest of the rope was seemingly as sound as ever.

Wm. C. Cater was the next witness. He stated, in substance, that he was passing the premises of Wm. Strong when he was called upon for help to get the body out of the well. That he volunteered to go down and attach a rope so that the body might be raised. On descending he found it head downward in about seven feet of water. That after some exertion he succeeded in bringing the body to the surface and attaching a grappling iron so that it could be pulled to the surface by means of the windlass. From what he could learn of the accident and from the appearance of a deep cut on the back of the head, witness thought deceased must have been killed instantly by the fall of rock, and that he was dead before he reached the water. He knew deceased well. His name was John Livesey. He stood about 5 feet 9 inches, was born in St. Louis, 47 years ago on the 21st of January last. He leaves a wife and five children and many friends to mourn his loss. He was a steady, honest, hardworking man, universally respected by his neighbors.

After brief consultation the jury returned a verdict in accordance with the facts as developed by the inquest.

The funeral of the unfortunate man will be held at the Tenth Ward meeting house on Wednesday at 3 p. m.

Last night, as the result of the excitement superinduced by the death of her husband, Mrs. Livesey was prematurely delivered of a child.

The new railroad between San Bernardino and Los Angeles will be completed by June 1st.

## THE MOTION OVERRULED.

The Verdict in the Grow Case will Not be Set Aside.

THE JUDGE TRIES TO BE FUNNY—ANOTHER DEFINITION.

This morning the motion for a new trial in the case of the United States vs. Henry Grow, convicted of unlawful cohabitation, was taken up in the Third District Court, Mr. Sheeks appearing for the defendant.

The defense asked that the verdict of the jury be set aside and a new trial ordered, on the grounds that the evidence was insufficient to justify the verdict, and that the Court had erred in permitting witnesses to be asked certain questions and in the charge to the jury. Mr. Sheeks made a short but forcible argument in support of the motion.

Mr. Dickson opposed the application, commenting principally on the fact that the plural wife had not been found by the officers for nearly a year and a half after the indictment was found. He also alleged that the witnesses did not testify to all that they knew in the case.

Mr. Sheeks replied that the prosecution had no right to hold the defendant responsible for the absence of a witness for the prosecution, when it was not shown that the defendant had anything to do with it. It was a poor reason to urge conviction because the witnesses could not or did not testify to facts as the District Attorney wanted them to. When no evidence was given against a man, there was no justice in convicting him simply for the reason that the District Attorney said the witnesses were friendly to defense.

Judge Zane then gave his decision in substance as follows: The defendant in this case was tried before a jury and convicted. He now moves for a new trial. The rule of law governing the granting of new trials varies somewhat. Some say that if there is any evidence to support the verdict the Court will not set it aside; others that unless it is evident at first blush that error has been committed, it should not be done; others still, that unless it is clearly wrong, it must stand. The true rule seems to be that the Court will not set the verdict aside unless it is clearly of the opinion that the jury was in error. Under the statutes, the jury are sole judges of the evidence, and unless the verdict is clearly wrong or induced by improper motives or by mistake, it must not be set aside. Evidence to prove an offense of this kind may be circumstantial; when the association is such that a party knows it is wrong, he endeavors to conceal it. It is not an offense practiced on the housetops, but is usually a dark association. Jurors judged by the circumstances and arrive at a conclusion as to the facts. The circumstances of this case are that the defendant had a lawful wife; the controversy is with regard to his polygamous wife, whom he married about sixteen years ago. He lived with her until the law of 1882 was passed, when they became aware that it was unlawful to live together as man and wife. She states that they agreed to separate and did so; they did not separate because they wanted to; they would like to still cohabit, and the probabilities are they did not think it wrong to do so, except as it was a violation of law. The defendant gave her a house where she lived except when away from home; he went to her house on a number of occasions. One explanation of these visits is that the house needed repairs; their relationship was that of owner and occupant and builder or repairer; he was repairing the house. The evidence shows that he was not repairing the house so long as his visits continued, from December, 1882, to October, 1885; that hardly explains his frequent visits. The other explanation is visiting and bringing letters to his grand-daughter. The associations there were of letter-carrier and grand-daughter, for which he came, and to inquire how she got along, and that he did not come to see his polygamous wife. This is the explanation of the visits by the grand-daughter. The polygamist wife says he did not come to see her. When she was arrested she tried to mislead the officer by trying to make it appear that she was not defendant's wife. The defendant had been away from home several nights. This is explained by the testimony that defendant sometimes slept at the Temple Block. These facts singly amount to little, but the number of circumstances point to the fact in dispute, and weigh a great deal. Many of the facts are worth but little separate, but taken together in the light of the relation of the defendant and his polygamous wife, and their disposition to live together, they are worth something, and with the manner of the witness, afforded evidence that this man associated with her as his polygamous wife. When he was seen at her house so often, there was some relationship. It would hardly do to say it was only that of friendship. A candid man, understanding human character, who sees a man visiting under these circumstances, would not think so. It is not human nature. His polygamous wife is an attractive woman, one who would attract an old gentleman, with such propensities as some old gentlemen have. A candid man would, and the jury did, come to the conclusion honestly that he was guilty. I am not sure they were wrong. My conviction is that the old gentleman was there associating with his polygamous wife. The fact that he was at the Temple Block was offered to explain his absence from home. The jury must have found that he was there or with his plural wife. The fact that he had no other wife pointed to this one. I am of opinion that the charge to the jury was not incorrect. The Supreme Court said unlawful cohabitation was not an isolated act, but continuous until an indictment was found. The only way it could be separated was by finding an indictment. The cohabitation cannot be actually continuous—they cannot be together all the time; a man may be away nearly all the time—away for years—yet the cohabitation is continuous. If a party associates with a woman as his wife, under circumstances that indicate she is his wife, though it may be but an hour; they are together, they are living—they are living together. Though the evidence in this case is meagre, I am not disposed to set it aside.

Sentence will be passed upon the defendant on Saturday, March 19, at 2 p. m.

**Bullion-Beck Mine Sold.**—We clip the following from the San Francisco *Chronicle* of March 14:

"Articles of incorporation were filed in the county clerk's office on Saturday of the Bullion-Beck and California Mining Company to operate in Utah Territory, with the following well-known residents of this city as incorporators and trustees: Ex-Governor Geo. C. Perkins, of Goodall, Perkins & Co.; Jerome A. Fillmore, General Superintendent Central and Southern Pacific system of railroads; General Wm. H. Brown, late United States surveyor general; Cornelius O'Connor, with J. C. Flood, and Alexander Badlam, president of the Bankers' and Merchants' Insurance Company. Upon inquiry it was learned that the company has purchased the Bullion Beck mine in the Tintic mining district, about a hundred miles south of Salt Lake City. This mine has for many years belonged to the Mormon Church, but the recently enacted laws of Congress to suppress polygamy and crush the power of the Church have compelled them to dispose of all their property, and the above syndicate has purchased the Utah mine."

The statement regarding the Church being interested in the mine in question is incorrect. It held none of the stock, which was entirely in the hands of private parties.

**Shooting at Charleston.**—Mr. Wm. Wright was in Saturday and informed us of a shooting scrape that recently occurred at Charleston. He says that the trouble started through Joseph Bagley getting into a dispute with Calvin Murdock over a two-bushel sack. Bagley became so boisterous that his action was construed as a breach of the peace and on the following morning he was arrested by officer John Powers and gave bonds to appear at 2 o'clock in the afternoon. He appeared but refused to be arraigned, firing off his pistol several times and declaring that there were not men enough in Charleston to arrest him. The constable was unarmed and went at once and procured a double-barreled shotgun. On returning he told Bagley to throw up his hands, and the latter instead of doing so drew his pistol and at the same time jumped behind the liberty pole. The constable at this movement fired upon the belligerent, the shot taking effect in his arms. He still, however, refused to give himself up, and his son, 15 years of age, ran behind him and grasping his arms held them up while the officer relieved him of the weapon he held in his hand and another similar one which he carried in his hip pocket. His wounds upon examination by a physician were found not at all serious, though 36 of the shot had taken effect.—*Territorial Enquirer.*

## MARRIAGE.

WALKINGSHAW-BOYLE — At Logan, on March 17, 1887, Francis Walkingshaw, of this city, and Jane G. Boyle, of Ogden City, both late of Edinburgh, Scotland.