

ESTABLISHED 1850.

DESERET NEWS:

WEEKLY.

PUBLISHED EVERY WEDNESDAY.

One Copy, one year, with Postage, \$2.50
Six months, 1.50
Three months, .80

DESERET NEWS:

SEMI-WEEKLY.

PUBLISHED EVERY TUESDAY AND SATURDAY

One Copy, one year, with Postage, \$3.00
Six months, 1.75
Three months, 1.00

EVENING NEWS:

Published every Evening, except Sunday.

One Copy, one year, with Postage, \$10.00
Six months, 5.00
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PUBLISHED BY

THE DESERET NEWS CO.,
SALT LAKE CITY, UTAH.

FROM TUESDAY'S DAILY, APRIL 17, 1888.

Bredemeyer Arraigned.

This afternoon Dr. Wm. Bredemeyer was arraigned in the Third District Court, on the charge of having committed adultery with Emma Bapty, on March 19, 1887. He pleaded not guilty.

Arrest at Bountiful.

Wm. Parkins was arrested at Bountiful today on a charge of unlawful cohabitation. He was taken before Commissioner Norrell and held in \$1500 bonds to wait the action of the grand jury. His plural wife was required to give \$200 bail.

W. J. Jenkins Convicted.

In the Third District Court yesterday afternoon, the jury in the case against Wm. J. Jenkins, of West Jordan, returned a verdict of guilty of unlawful cohabitation. Mr. Peters pressed a motion for judgment, but at the request of Mr. Moyle sentence was deferred till Saturday next at 10 a.m.

Application for Continuance.

In the Third District Court this afternoon, Le Grand Young, in behalf of Wm. Brown, of Bountiful, indicted for unlawful cohabitation, asked that the case be continued owing to the ill health of the defendant. His physician, Dr. Taggart, certified that he could not remain in court for an hour at a time, owing to kidney troubles, but was improving.

Mr. Peters opposed the application saying he had been informed that "the old man" had been out in the field at work last week.

The court will hear the matter further tomorrow.

Third District Court.

Proceedings before Judge Zane today:

The People vs. Chas. Willson; defendant's witnesses ordered subpoenaed. United States vs. Peter Torg; same order.

United States vs. Sarah Torg; same order.

M. B. Buford et al. vs. John S. Houtz et al.; demurrer to complaint overruled.

United States vs. Wm. H. Tovey; unlawful cohabitation; verdict of guilty; sentence set for April 21.

United States vs. George C. Watts; unlawful cohabitation; trial in progress.

Probate Court.

Proceedings in the Salt Lake County Probate Court yesterday:

In the matter of the estate of Mary A. Hooper, deceased; proof of publication of notice of time and place of hearing made; decree made allowing final account and making distribution of the residue of said estate.

Estate of Joseph G. Romney, deceased; proof of posting notices made; order made admitting will to probate, and appointing Jane W. Romney and Joseph W. Romney executors thereof; order made of publication of notice to creditors and appointing George Romney, Joshua Midgley and George H. Taylor appraisers of said estate.

Estate of J. A. Bouck, deceased; order made admitting will to probate, and appointing Elizabeth Bouck administratrix upon filing a bond in the sum of \$3000.

G. C. Watts' Trial.

The trial of George C. Watts, of South Cottonwood, on the charge of unlawful cohabitation, took place in the Third District Court today. In December, 1886, Mr. Watts pleaded guilty to unlawful cohabitation, and promised to obey the law. Today he was called to answer to a second indictment, dating from Nov. 1, 1886, to Jan. 1, 1888.

Miss Alice Maxfield, stepdaughter of defendant, testified that Mr. Watts lived with his plural wife, her mother, up to the time when he promised to obey the law. Her mother had given birth to a child four or five months after they separated. Subsequent to the separation, he had called occasionally to see the children, and had provided means for their support.

Benjamin Wright was called as a witness, but knew nothing of interest in the case.

Mrs. Minnie Maxfield testified—My first husband, John Maxfield, is dead; my second husband is Geo. C. Watts; I have four children by him, the youngest ten months old; they bear the name of Watts; since the defendant promised to obey the law, he has lived only with his first wife; we separated two or three days before he made the promise to obey the law; I made a mistake when I told the Commissioner we separated in December; it should have been November; he took dinner with us on the 29th of December; the little boy, who was sick, asked him to come in, and he said, "It's against the law, but I'll risk it for the child;" he has called half a dozen times since then, but has not been in the house; he contributes to the support of his children.

To Mr. Darke—Mr. Watts has not contributed sufficient for the support of the family; he has been in my house only once or twice since he promised to obey the law.

The former indictment against Mr. Watts was up to Nov. 24, 1886, and the defendant promised to obey the law on Dec. 1, following.

Commissioner A. G. Norrell testified that the defendant had had a preliminary examination before him, in December, 1887; Mrs. Maxfield there testified that the defendant and herself had separated on Dec. 26th, 1886; the defendant then said Mrs. Maxfield had told the truth.

This closed the evidence in the case, and the attorneys began the arguments, which were in progress when we went to press.

ACCIDENT AT ALMY.

A Coupling Pin Breaks—Thirteen Men are Seriously Injured.

Yesterday morning the coal mines at Almy, the scene of such a fearful explosion some time since, became the scene of an accident which, bad as it was, might have turned out much more seriously. Nine empty cars with about five men to each car were being taken down the incline at 7 a.m., the men just going to work. The engine had a new brake which was rather more powerful than it was thought to be by the engineer. As he desired to slow up, the brake was applied. This produced a jerk which broke the coupling pin. The cars at once rushed down the incline (33 degrees). As soon as the men saw what had happened they began jumping from the cars on either side, as it meant certain death to remain. A great number were very seriously injured through jumping, the cars rushing down the incline at a fearful rate. The confusion and terror was frightful. To those who were in the first car it seemed as if they were certainly doomed. As they jumped, the lamps in their caps, the only light they had, went out. Some fell on their heads, others jumping too far dashed against the sides of the tunnel; all was darkness and amid it all was heard the humming of the wheels as the cars rushed swiftly by. One man's coat became entangled in the wheels and he was dragged for some distance out escaped with an arm out of joint. Another, falling on his head, was badly scalped and his right arm was run over, cutting the flesh and breaking the bones. Another, a young man of 18, was the most severely injured, but to what extent could not be learned, as he was placed under the influence of ether and was being examined at the time the reporter left. These three, whose names are Frederick Skinner, Peter Baum, and John C. Neal, were brought down to Ogden on U. P. No. 1, last night, and taken to the hospital, where their wounds received attention. There were 13 men injured in all, several of them seriously, but having their families at Almy they remained there. The cars went to the bottom and were piled up to the roof—a general smashup. The government inspector had just previously inspected everything and pronounced it safe, but it proved otherwise.—Ogden Standard, April 17.

W. H. TOVEY.

The Evidence on which He was Convicted.

The trial of W. H. Tovey, of the Twentieth Ward took place in the Third District Court today. The indictment charges him with unlawful cohabitation subsequent to his release from the penitentiary.

Miss Eliza Tovey was the first witness. She testified—I am the daughter of Wm. H. and Anna Tovey; my father was released from prison about the first of August last; Harriet Tovey lives on the same lot as mother, but in a separate house; her children bear the name of Tovey; Harriet is father's second wife; I have not seen him at her house since August last; he spends his evenings at mother's; he sometimes goes out to meetings; I know that he goes to meetings, because he tells us so; I have been to Harriet's two or three times since he came home.

The witness gave way under the pressure of being compelled to testify against her father, and wept bitterly. On resuming, she had seen her father near Harriet's house since he came from prison; he was not very close to her house, but in our yard; the wood he saws in our yard, and both families use it; the children come and get it; I did not tell the commissioner father visited Harriet twice a week; I don't know, myself, whether he does or not; I never saw him go.

To Mr. Moyle—I have not seen father and Harriet together since he came from prison; I do not know what the reputation is.

Mrs. Ann Tovey testified—I live in the Twentieth Ward; am the wife of Wm. H. Tovey; know Harriet S. Tovey; she was married to the defendant about 11 years ago; she lives in the next house to me; her children bear the name Tovey; he has not lived with her since he came from prison; I have not seen him at her house.

Mrs. Harriet Tovey testified—I was married to the defendant twelve years ago; I don't know how long the marriage continues.

Mr. Peters—Does it continue for time and eternity?

Mr. Sneeks—I object to that as immaterial. He has nothing to do with eternity in that sense.

Mr. Peters—Repeat the ceremony if you can.

Witness—I cannot do it.

Mr. Peters—Was the marriage to continue for time and eternity, as stated in the ceremony?

Witness—The future with me has nothing to do with you.

Mr. Peters—I think it has.

Witness—I know it has not.

Mr. Peters—You can tell whether the marriage was for a few years or for eternity?

Witness—I cannot answer that.

Mr. Peters—Why?

Witness—Because I do not wish to.

Court—Do you remember what was said at the time?

Witness—No, sir.

Mr. Peters—How long did you promise to be his wife?

Witness—I did not make any promise.

At this point Mr. Peters gave up his search in the direction the questions indicate, as fruitless, and in answer to further inquiries the witness testified—I lived with my husband from the time we were married till he was sent to prison; I saw him a few days after he was liberated; believe I saw him the first day that he got home; he was not at my house; he came when our child was sick; he used to come to see the children; may have called every other day; I would speak to him, but he did not come to see me; he generally called in the evening; I do not think he ever stayed till 10 o'clock, even when the child was sick; he never stayed as long as two hours; the child was sick for two months with typhoid fever; did not have a doctor, because I did not want one; Mr. Tovey supports the children; I take in sewing; he furnishes means; and I do the purchasing.

Commissioner A. G. Norrell testified—I had a hearing of the case against the defendant; it was on November 26th, 1887; Mr. Tovey there stated that he had treated her as his wife in caring for her, but had not lived with her; he said he had only given such assistance as she needed in the way of cutting wood, and bringing water, which had to be carried a long distance.

The case was rested with this testimony, and Assistant Attorney Zane made a speech demanding the conviction of the defendant.

The attorneys for the defense made no argument, and the court charged the jury that in order to convict the defendant they must believe from the testimony that from Sept. 1, 1887, to Nov. 29, 1887, that he lived with both women as his wives. He was guilty if he visited and associated with both wives.

The jury returned in half an hour with a verdict of guilty.

Mr. Moyle asked that the defendant be given to May 1 for sentence. Mr. Peters did not exhibit any magnanimity considering the circumstances of the case, and opposed the request. The court set sentence for Saturday, April 21st.

INJUNCTION DENIED.

The Sheepmen Cannot be Swept On Government Land.

This morning, in the Third District Court, Judge Zane rendered a decision in the case of M. B. Buford et al. vs. John S. Houtz et al. In this case the Promontory Stock Company sought by injunction to keep Mr. Houtz and a score of other defendants from driving their sheep over the stock company's lands to the sections owned by the government. The Promontory cattle company have purchased a large tract of railroad land in Box Elder County. The railway lands are the even numbered sections, the alternate sections still belonging to the public domain. Through this purchase they became the owners of the railroad lands in a tract of country stretching forty miles north and south and thirty-six miles east and west. The government lands which were included in this area foot up to more than 350,000 acres. The sheepmen claimed that they had a right to the use of the public lands, and also to pass over the company's lands to get there. Of course the sheep nipped the herbage on the stock company's lands, in crossing, and as the company could not fence, except in single sections, for that would enclose government lands, an application was made asking that the sheepmen be compelled to keep off the tract altogether.

Judge Zane reviewed the facts in the case and said the question was, Do the facts alleged present a case in which the court should issue an injunction? Would it be equitable to do so? The effects of such an injunction, upon all parties, not only the plaintiffs and defendants, but the public, must be considered. To determine whether the remedy is equitable, the court must ascertain the effect upon these parties and upon the government.

One effect would be to secure to the plaintiff the exclusive right to the use of its own lands; another effect would be to give the plaintiff the exclusive right to use the public lands for the purpose of passing from one tract of its lands to another, and to graze thereon to that extent. It is impossible to drive cattle or sheep over grazing land without allowing them to nip the grass. This injunction would give to the plaintiffs the exclusive use of plaintiff's land and also of the public land, and would deprive the defendants of a right which they enjoy in common with all citizens—to graze their stock on public lands—a usage established from the origin of this government, giving to all a common right to graze stock on the public lands unenclosed. It may be regarded as an implied license, and is a substantial right enjoyed by stockmen.

The plaintiff asks, in consequence of the impracticability of enclosing its lands, that the defendants and all others be deprived of the right to the use of 350,000 acres of public land. It asks that the public who wish to travel from north to south shall pass around 36 miles; in going from east to west to pass around a block of land 40 miles. While it admits that the government will not permit the enclosure of public lands by fence, it asks the court to fence this land, 36 by 40 miles with an injunction; asks that the government will keep watch, and warn all persons to keep off this land on pain of punishment.

Are the legal rights of the plaintiff so connected with legal rights of the government and all others who have a right to the public lands, that a court of equity may secure to it its rights? Or are its rights so complicated that to apply the remedy asked for would be unjust. The government must extend equally to each man his rights so far as it can. If this injunction is issued it secures to the plaintiff the right to its own land, and also the exclusive right to the use of the government land, and deprives the defendants and all others, of a right which they possess; and it further imposes great hardship on all persons driving this class of stock from one section of country to another, in compelling them to go around a tract thirty-six by forty miles.

Equity follows the law. The law, owing to its unyielding rule, is unable to secure to every man his rights. Equity is more flexible, and is intended to secure to the citizen those legal rights that he cannot otherwise secure. But it appears that here is a case where the rights of one party cannot be given without invading the rights of others and being partial. To give the plaintiff the exclusive right to 350,000 acres of government land would be unequal and unjust. If the plaintiffs could make roadways, or by monuments designate its lands, and allow passageways, a court of equity could come in and aid therein. The parties here cannot, however, enjoy their rights without trespassing on each other, and on the land to which the public has an equal right.

The plaintiffs knew how this land was situated. When government made this magnificent donation to the railroad, it did not intend to give to other sections to the railroad and deprive the public of the use of the public land. The plaintiffs knew this situation when they purchased this land. In view of all the effects of an injunction, I am disposed to hold that equity should leave the parties where the law does—leave them to their legal remedy.

The government has not done all that it should for the public lands. There should be some method for parties to obtain the use of these lands. The grazing lands are becoming occupied, and there is considerable crowding and feeling between cattle and sheep owners. Congress should arrange for the use of public lands by those who are willing to pay for it. The injunction is denied.

STABBING AFFRAY.

Coroner Hall, of Ogden, Cuts Wm. Bybee.

A lamentable occurrence took place yesterday afternoon, some two or three miles south of Ogden. The facts, as near as they can be learned, are as follows: Wm. Bybee, of Uintah, had a herd of sheep near the spot, which he was attending. Coroner Mark Hall, of Ogden, owning some land at that place, complained to Mr. Bybee for permitting his sheep to run on Hall's land. From words they came to blows, Mr. Bybee striking Mr. Hall and knocking him down. While Mr. Bybee, who is a much younger and larger man than the coroner, held the latter down and was assaulting him, Mr. Hall drew his pocket knife, opened it, and jammed the blade into his antagonist's stomach three times. One of the wounds pierced the liver, and the others the bowels. Mr. Hall gave himself up to the officers, and Mr. Bybee was given surgical assistance.

An examination into the case was set for today, but was further postponed owing to the condition of the wounded man, whose injuries are believed to be fatal. A message received at 3:30 this afternoon stated that he was still alive, with no apparent change in his condition. Both men have borne good characters, Mr. Hall having been a resident of Ogden for nearly forty years, and possessing the esteem of the community.

In the North.

On Friday evening Deputy Marshals Exum and Whetstone arrested Mary A. Thompson, of Hyrum, on the charge of fornication. She has not had a hearing yet and no definite time has been appointed for it.

Ole Nielsen, of Millville, who was arrested last week on the charge of unlawful cohabitation, was before Commissioner Goodwin yesterday, when an examination of his case took place. The result was Mr. Nielsen's discharge.

On Saturday last a rail was placed across the track and a spike was driven in a joint, between Franklin and Richmond. It was fortunately discovered before any damage was done. The Union Pacific Company through Division Superintendent Ressegule, has offered a reward of one hundred dollars for the discovery and conviction of the guilty parties.

We learn from a gentleman who was aboard the Utah & Northern passenger train coming north on Monday evening that an exciting incident occurred just as the train was leaving Brigham City. A genuine tramp of a desperate character boarded the train and was put off by a brakeman. He, again endeavored to get aboard when the brakeman was found at his post of duty. Mr. tramp drew his revolver. It happened that there were two U. S. deputy marshals on the train. One was Deputy Whetstone and the other was Eagleson, a new man who had but recently been sworn in. Eagleson started for Mr. tramp, when that individual broke for the sagebrush. It was the first attempt of the new deputy to make an arrest and he was determined to get his man, so he followed in hot and lively chase. He succeeded in getting near the tramp when he was confronted with a revolver apparently pointed at him. At this juncture of affairs Whetstone ordered the tramp to put up his revolver and he did so. Mr. Eagleson made the arrest and Mr. tramp was brought to Logan. On Thursday morning he was taken back to Brigham City. It was found that the revolver was not loaded. During the time of the excitement there was considerable uneasiness among the passengers and particularly among the ladies.—Utah Journal, April 18.

The idea of using axle grease or bread seems utterly repulsive to some people until they have tasted the fresh country butter sold at the groceries.—Nebraska State Journal.