

person than the man immediately interested in the charge, and if an indictment should be found, submit it in the proper way. It will not do to undertake to say that a case like this—with a mass of testimony supporting the affirmative—can be laughed at and hissed down in this community. No man lives here who is great and strong enough to stand up against it. Nothing but the clearest, the most searching investigation will satisfy the law. It is not an ordinary case; it is not a simple case of the individual violating the law. It is a case, if it be true, where a great official, a trusted officer of the greatest government on the face of the globe has so far prostituted his office and so far misused his power as to mistreat, and humiliate, and oppress poor unfortunates confided to his care. It is something that this community, and the world, is interested in. Their voices must not be stifled at the threshold of the investigation or the inquiry. They are feeble, it is true; you cannot hear them above the ordinary winds that blow. They are women's voices, but they speak to us as though our mothers and our sisters spoke. We owe to them more than to men—a tender regard and careful consideration, and we should be more careful and more deliberate in investigating complaints made by these women than where men are affected. I submit, without saying what my conviction is, that there is reasonable and probable cause to send this case to the grand jury. I submit that if I or Mr. Critchlow stood in the position that this man now does, we should say, "I want the verdict of a trial jury; I cannot afford to let this story be written here in the contemporaneous history of Utah, to stand as an ever-living reproach upon me and my descendants. Nothing but an acquittal will satisfy me. I want the opportunity to go upon the stand, to look twelve of my fellow-citizens in the face and say to them, holding up my hand before God Almighty, that I am innocent." And so I say in this case, believing that in the end all things come right—that the right always comes uppermost if justice is done. In this spirit I submit this case on behalf of the government of the United States."

Mr. Varian spoke for about two and a half hours. He had lashed himself into such a fury of excitement during the delivery of many passages in his address that his shouts were almost deafening to those seated beside him, and as a consequence his voice became so husky when nearing the close of his remarks that he was compelled to cease speaking for fully twenty minutes. The court during this interval took a recess, and when his voice got clearer the speaker was able to talk uninterruptedly until his peroration was concluded.

The Commissioner, when Mr. Varian had resumed his seat, said—The defendant stands charged here with the crime, under the statutes of our Territory, of wilful and inhuman treatment of prisoners while in his care as a United States Marshal. The question for this court to determine, in the words of the statute, is whether there is sufficient cause to believe from the evidence that has been presented in this case that this crime has been com-

mitted, and, if so, whether the defendant is guilty thereof. This is a case that I would gladly have shirked the responsibility of hearing the evidence upon and of determining the question involved. It is a case that should be decided upon the evidence alone; no outside bias and prejudice ought to be allowed to come into it. No political influence, or any other kind of influence, can weigh a feather in my decision. I propose to determine it in the light of the evidence which has been adduced here. I shall not go very closely into the details of the testimony, for they have been criticized here repeatedly during this investigation, but there are a few salient points to which I would like to call attention. I will go over the evidence of the witnesses—some of them—in the order presented, taking first that of Anna Prindle. She testifies that on May 22nd she was sentenced to the penitentiary. On that day she went to the marshal's office, and while there, as well as on the way to the penitentiary, she says the marshal took improper liberties with her. She testifies that she went to the Giesy house, and worked there until October 17th. On the day when the visitors were at the Giesy house she claims that the marshal came into the kitchen and took improper liberties with her. The next occasion complained of was on October 22nd. Now I want to say right here that my decision in this case depends entirely upon the credence to be given Anna Prindle in this case. If she is not credible, the defendant should be discharged; if she is, he should be held. Now in determining what credibility should be given to a witness, we have to take into consideration his or her manner and deportment upon the stand. When this witness (Prindle) went upon the stand she impressed me at the time as being a fair, candid witness, and one who was disposed to tell the truth. There is one other additional fact, namely, that she states she told Oscar Vandercok, the warden at the penitentiary, that while she was at the Giesy house the marshal had insulted her. Mr. Vandercok corroborated that statement. These are the strong points of the prosecution. Now, it struck me that the weak points of the prosecution were, first, the public manner in which the witnesses alleged those indecent liberties were taken by the defendant. She testified that the first occasion was in the marshal's office, with the door open. The next occasion, she says, was at the penitentiary, in the public office, where everybody had access; and the third occasion was at the Giesy house, when ten or twelve persons were about there. Three attacks of this kind at least were made upon her, if her testimony is to be believed—before she told anyone anything about what had occurred. But on the 22nd day of October, while on the way to the penitentiary she told the warden that the marshal had assaulted her at the Giesy house, and that was the reason why she would not go back there. She said nothing about the assaults made previous to that, and nothing about the assault made by the marshal on that very day. It seems to me that if she was telling the truth, she would have told him of all the assaults. This I consider one of the weak points.

With regard to the testimony of Mr. M. K. Parsons, the only weak point of his evidence would be the fact that he is related to the marshal and interested to the extent that he should not want to see the family name tarnished. Now as to the affair at the Giesy house. Mrs. William Giesy testified that when the marshal came she saw him, and as he stepped into the kitchen she called to him and he went to her at once. But I must confess that the testimony which impressed me most was that of Mrs. R. A. Giesy. She heard the marshal coming while he was yet on the road. Then she returned to the sitting room. She had him in view from the time he entered the kitchen, practically, until he went into the cellar where his wife was. She testified positively that it would have been utterly impossible for the marshal to have touched Miss Prindle without her knowing it. She gave her testimony with earnestness. She struck me as being a candid, straightforward witness. If her evidence is true—and I have no reason to doubt it on account of her interest in the case—Anna Prindle's testimony is, to say the least, discredited, and that condition has been forced upon me—that her testimony in many respects won't bear the light of day. I must say there is not a sufficient case here to hold the defendant to the grand jury; therefore he is discharged.

The moment the result was announced the crowd of spectators standing outside the open window of the commissioner's room gave vent to their feeling by breaking into a loud "hurrah!" A smile of relief and satisfaction passed over the marshal's face, and as he left the court with his counsel quite a number of his sympathizers went forward to meet him, grasped him warmly by the hand, and congratulated him upon his acquittal.

Judge Henderson was not present during the proceedings of yesterday, being occupied on legal business in Ogden.

THE BARTON CASE.

Ogden was treated to a sensation Dec. 17th, in the trial of the People vs. Joseph Barton. The defendant was charged with adultery, and the prosecuting witness was Maggie Forkner, the girl who cut so prominent a figure on the witness stand during the Parsons investigation. Maggie was an inmate of the Reform School at the time of the superintendency of Mr. Barton, and the offense was alleged to have been committed at that institution.

The prosecution was represented by United States District Attorney Varian; Judge Henderson and Attorneys Evans and Rogers were for the defense.

Deputy Marshal Bowman and City Marshal Metcalf were the first two witnesses. They testified as to the arrest of the defendant, Metcalf stating that he had not believed the story true until he had seen Mr. Barton's peculiar actions when meeting Mrs. Forkner.

Clarence Goddard testified in the course of his examination—I am 21 years of age and I went from the Beaver court to the Reform school March 25, 1890, for stealing a horse; I left the Reform school July 1st of this year; Maggie Forkner went with me;