

TRIP MAY FAIL

Grand Jury May Not Hear Congressmen.

NOT COMPELLED TO BY LAW

Land-Fraud Defendants Reported Having Confessed.

TWO GIVE THEIR TESTIMONY

Marie Ware Alone Refuses, but Will Be a Witness—New Evidence Connects C. E. Loomis With Norman Williams Case.

DEVELOPMENTS IN LAND FRAUD CASES.

Senator Mitchell and Ringer Hermann may not be allowed to appear before the grand jury when they reach Portland. Whether or not they are permitted rests entirely with the jury itself. If there is doubt on testimony offered which is capable of being removed by explanation, it is probable that the Congressmen will be asked to clear up the doubt. Otherwise, they will be granted no privilege which would not be accorded to any citizen of the United States.

It is rumored that testimony has been gathered by the Government, and will be presented, which will connect C. E. Loomis, as a participant in the crime, with the Norman Williams murder. This is the case in which Williams murdered Alma Nesbitt and her mother in March, 1900.

It has developed that the reason the second conspiracy case was postponed was because of the promise of the defendants convicted in the first instance that they would have the details of all fraud with which they were connected and make a full confession before the grand jury. Marie Ware alone refused to confess, but will be a witness before the jury. Puter and McKinley were called as witnesses yesterday. Miss Ware will testify today.

S. E. Ormsby, who is reported to be certain of indictment, has, in connection with Mrs. Ormsby, been reported to the Government officials, who are trying to reach him with a subpoena.

The Federal grand jury is now in session. Senator Mitchell and Representative Hermann are both speeding across the country to claim their privilege, as they state it, of appearing before the jury to explain why they are innocent of all wrong. Rumor has it that when the two officials reach Portland they may not even be allowed to appear to give their testimony.

Judge Bellinger, in charging the jury, made the usual recommendations as to the conduct of the men while engaged in their work of looking at the evidence to be brought before them. In closing he advised that if persons connected with the testimony were to ask to appear in their own behalf, such request might be granted.

"This is not a legal right of such persons," said the Judge, "but it would be proper for you to allow them to appear, and I would recommend that you do so."

Depends on the Testimony.

And so it appears that there is a great deal of doubt as to whether or not the long journey of Senator Mitchell and Mr. Hermann will be to any purpose. It is the supposition that their being allowed to appear before the jury will depend in great measure upon the nature of the testimony which it is supposed will be offered to connect them with the land fraud, and in the desire of the jury to meet with them. The Government knows no rank or class in its work, so it is said, and no more privilege will be allowed to Mr. Hermann or to Senator Mitchell than would be granted to any citizen of the United States whose name was under consideration in the room. If the jury is at doubt on any testimony, or if the evidence is such that it will admit of an explanation, then the gentlemen will be called by the jury. But, if, on the other hand, it is definite and certain, and there is no need for explanation on the part of the gentlemen concerned, or if it is a statement of fact that is being detected and the admission of the gentlemen would encroach upon the prerogatives of a trial jury, then the privilege to appear will be denied. In any case, it is the opinion that under no circumstances will the officials, in the event of their being allowed in the juryroom, be permitted to plead their cause or tell their story according to their individual desires. They will be subjected to the same rules of procedure as will prevail in the case of the other witnesses examined, and their exalted public positions will avail them nothing in the granting of special privileges. The appearance then of the two men from Washington is awaited with great interest, as they seem to be the pivots of the proceedings, in public expectation at least.

C. E. Loomis in a New Light.

C. E. Loomis has come into the limelight in a new, sinister and, to the vast majority, an entirely new and ghastly role. The story now comes that the evidence which has been gathered against the former special agent of the Government will incidentally connect him as a participant in the crime with Norman Williams in the murder of Alma Nesbitt and her mother in March, 1900, for which crime

Williams was tried at The Dalles and convicted.

The story runs that Loomis was sent to investigate the claims which Williams and the Nesbitt woman had taken up. The woman had by this time disappeared and no one knew their whereabouts. The supposition is, and rumor has it, that the evidence to be produced will substantiate this circumstance, that Williams made confession to Loomis concerning the murder and that Loomis advised the murderer to get out of the country and to abandon his claims. To corroborate this it is cited that after Williams had disappeared Loomis became the beneficiary to the extent of about \$500 worth of property in the vicinity of the Williams claims. Williams was interested in an irrigation ditch to that amount before he had become mixed up in the trouble which finally resulted in conviction, and when he left the country his stock disappeared, but at the same time Loomis is alleged to have become the possessor of an equal amount.

If this line of testimony is borne out, as it is rumored it will be, the evidence of the Federal officers will, without doubt, be given to the Wasco County grand jury or to the District Attorney of that district and an indictment will issue for Loomis on the charge of being an accessory after the fact to the Norman Williams murder.

Secret Conference Held.

The reason for the postponement of the second conspiracy case on trial has at last become apparent, and the future fate of these same cases is a thing of conjecture.

It is known that on the evening of Monday, December 12, the defendants in the first case went into executive session and did not finish their arguments until the eastern horizon was beginning to pale on Tuesday morning. The story of that meeting is said to have been substantially as follows:

S. A. D. Puter, Emma L. Watson, Horace G. McKinley, Marie L. Ware and perhaps Dan W. Tarpley met to talk over the situation. It was argued by all of them that they were at a disadvantage; that they had all been convicted, with the exception of Miss Ware, who did not have a pleasant time awaiting her; that there was a great deal of trouble ahead from which they saw no way of escape.

All these things considered were not pleasant to contemplate, so said Puter and Watson and McKinley, and they did not see why they should suffer in silence while the bigger ones rested in peace and security. They then decided to tell what they knew.

Miss Ware was game, however, and bolted the caucus. She called to mind, so the story runs, that the Government attorneys were not particular friends of hers. She remembered the way they had talked about her in the courtroom, and therefore did not think that they would deal kindly with her. Further than that, she was not under conviction, and had nothing to fear. For all of these reasons she refused to agree with the rest of the defendants, and reminded them of a location to which they could journey provided they did not like her decision.

Marie Ware Refuses to Confess.

The next morning, however, all having had time to consider the question, it was finally determined by Puter, McKinley and Watson, that the best thing for them to do would be to tell what they knew. Miss Ware, however, held out. She did not concede that she had anything to confess, but she, at last, consented to go before the grand jury with whatever testimony she might be able to give.

In return for all of this, so it is said, the defendants made up their minds that they could rest at ease under the hope of receiving the minimum sentence for the crimes of which they had been convicted.

Now the question is, "What about the cases which were postponed? Will they come to trial in April?"

Echo answers that such a thing is unlikely, and that the public will never hear what might have come out of the witness chair had the trials proceeded.

Defendants Testify Before Grand Jury

The agreement made yesterday when S. A. D. Puter and Horace G. McKinley went before the jury and testified that they knew of the frauds in which they were concerned, Marie Ware and Maude Coffin were in readiness to testify, but were not called, and will tell their stories today. Clyde Lloyd and Thaddeus S. Potter were also witnesses yesterday.

Potter was an attorney in the office of Pierce May, and it is said that much of the land alleged to have been secured by May was deeded and transferred under the name of his office clerk.

C. E. Loomis is at his home in Eugene, and it is said will await the indictment that is certain to come against him provided the statute of limitations has not run against him.

S. B. Ormsby is Missing.

S. B. Ormsby, on the other hand, is not to be found. His home at Salem, so it is reported, is closed and vacant. He is said to have come to Portland with Mrs. Ormsby on Saturday last, to have tarried in the city long enough to consult an attorney of the city, and then to have again departed.

Conspiracy Cases Advanced.

WASHINGTON, Dec. 19.—The Supreme Court of the United States granted the motion to advance the hearing of the Benson-Hyde and Diamond Pacific Coast land-conspiracy cases, and they were set down for February 20. The cases involve the question of removal from one jurisdiction to another.

DOLL MUCH MODIFIED.

Piner's Play Given Initial Performance in New York.

NEW YORK, Dec. 19.—"A Wife Without a Smile," Arthur W. Piner's much-discussed comedy, was given its first American presentation at the Criterion tonight. This play opened at Wyndham's Theater, London, several weeks ago, and aroused much discussion owing to the introduction of a mechanical doll, which was one of the features of the play.

TALE OF HER LIFE

Nan Patterson Recounts Events to Jury.

INTEREST MOST INTENSE

In Dramatic Manner She Denies Murder of Young.

STRONG WITNESS APPEARS

Mr. Levy Testifies That He Saw the Tragedy in the Cab, and That the Man Fired the Shot.

NEW YORK, Dec. 19.—"Did you or did you not shoot Caesar Young, Nan?" said Lawyer Levy to Miss Nan Patterson today.

"I did not," replied the witness in a firm voice.

"I would give my own life to bring him back, if it were in my power. I never saw the revolver with which he was shot. There was a flash, and then the end."

In a voice quivering with emotion, but filled with dramatic intensity, Miss Patterson, who is on trial charged with the murder of Caesar Young, recited to the jury the scenes in her life which had to do with her dealings with Young. Not only did Miss Patterson swear she did not kill Young, but she denied every circumstance in the case which the state has brought up against her.

She denied that she was dismayed because Young was about to leave her and go to Europe, after having been told by him, as it has been alleged, that all was over between them. On the other hand, she testified that, as a result of her conference with Young, it was agreed that she should join him in England and take apartments in the Hotel Cecil, London, taking care that she kept her whereabouts a complete secret from Mrs. Young and Young's relatives. An important feature brought out was the fact that Young gave the woman a postal card, on which he wrote his name and address, saying it was something she might need.

Great Quiet in Courtroom.

The crowd in the courtroom became suddenly still when the former show girl attacked the stand. The first of her testimony relating to herself was given in a low, even voice, but as she proceeded her tones became more tense, until, in her account of the fatal cab ride, her voice filled with tragic expression.

Early in her story Miss Patterson told of her original meeting with Young, of their life together, and of their contemplated European trip. She told of her talk with Young the night before his proposed departure for Southampton, of her being awakened by a telephone message from him to go to the pier to see him off, of the ride downtown, of the moments in a saloon, and of the ride in the cab before the shooting. She was asked to describe what happened after leaving the saloon, while driving down West Broadway.

"We talked about his going away, and he kept questioning me about my coming to meet him," she said. "I did not say anything, and finally he said: 'But I don't feel positive that you are going to come over.' He said: 'I believe that you are fooling; are you?' Then he said: 'Are you going?' I said: 'Refuses to Go to Europe.'"

"Well, Caesar, there's no use saying I will, because I've made up my mind not to; but you go over there and get things quieted down, until the folks have forgotten about things by that time. I will meet you at the Saratoga meeting."

"He looked at me awhile, and said: 'Do you mean that?' and then he grabbed me by the hand nearest to him and pulled me over toward him. He hurt me so that I tried to pull away, but I could not get away from him. I put my other hand up and he grabbed me. Somehow or other, I got away from him. I told him that he hurt me."

"He said: 'If you don't come over there, and I have to wait until the Saratoga meeting, I may never see you again. My horses have gone back on me. I've lost all that money. Now I'm losing my little girl, do you mean that?'"

"He grabbed me and hurt me so badly that the tears came to my eyes. I tried to struggle away from him again, and had to bend away over."

"There was a flash—the end," she said.

"You heard a report?" her lawyer asked.

"Yes."

"Was the pistol in Young's hands?"

"Did Not Know He Was Shot."

"I had not seen the pistol. Mr. Young fell over my lap, got half way up, fell again, and I thought he was having a spasm. He kept twitching and twitching. I called to him and tried to make him answer, but he would not. I believe I put my hand up and told the cabman to drive to the drugist. I don't know whether I did or not. That was my idea, and it seemed—oh, ages before I could get any one to pay any attention to me and help me."

lected to further answer, and was sustained.

"Did you, or did you not, shoot Caesar Young, Nan?"

"I did not. I would give my own life to bring him back, if it were in my power," she answered.

SAW FATAL SHOT FIRED.

Witness Swears That Young Held the Pistol.

NEW YORK, Dec. 19.—The defense in the trial of Nan Patterson for the murder of "Caesar" Young was begun today. Having waived the privilege of making an opening address, Mr. Levy called as his first witness Ida F. Townsend, who said that on June 3 last she was employed as telephone operator at the St. Paul Hotel, where the defendant resided. On the evening of June 3 Miss Patterson came to the desk and told her that if anyone else but "Caesar" Young called for her to tell them that she had gone out to dinner. Later in the evening Young called up and gave her a message which was delivered to Miss Patterson.

Edward S. Grossman, a clerk in an Eighth avenue confectionery store, said that Young used the telephone in the store after 7 o'clock on the morning of June 4. According to the witness, when Young got his connection through the central office, he said: "Good morning. How do you feel this morning? Hurry up and get dressed and meet me."

Grossman said he remembered the incident of Young's early morning call very distinctly. The witness testified that this was true despite a signed statement produced by Mr. Rand in which Grossman said that he first recalled the visit of Young when Lawyer O'Reilly, for the defense, questioned him two weeks ago.

Assistant District Attorney Rand was then called by Mr. Levy as a witness and asked if the name of Witness Grossman had been given him by the defense. Mr. Rand replied in the affirmative.

The first alleged eye-witness of the tragedy in the cab called by the defense was Milton W. Hazelton, an inventor, of Occident, Pa. Mr. Hazelton said he was visiting in New York early in June, and was on West Broadway on the morning of June 4. He was walking slowly along when he saw a hansom cab approaching. There were two persons in the cab, one a woman, whom he identified as the defendant, and the other a man.

"Did the man have the revolver in his hand at the time of the report and the flash?" asked Mr. Levy.

"He did," replied the witness. "He had both his hands raised above his left shoulder. The witness testified that the man's head fell into the woman's lap and she placed her hands on top of his head."

Mr. Hazelton said there was a man with him who also saw the shooting. It was this stranger who had called his attention to the cab. Whom the stranger was he

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IN POLITICS AS CITIZEN

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RELIGION AFTER CLASS HOURS

Idaho Editor Says Political Parties in His Section Looked to Salt Lake for Tip as to Which Would Get Mormon Support.

WASHINGTON, Dec. 19.—The Senate committee on privileges and elections today developed nothing sensational in the Senator Smoot examination. Evidence was introduced by members of the committee in statements by A. C. Nelson, Superintendent of Public Instruction for Utah, concerning the use of school buildings for the teaching of Mormon religion.

Apostle John Henry Smith was on the stand for two hours. Other witnesses were Isaac Birdsell, a Mormon, who said that his daughter was excommunicated because she would not obey a decision of a bishop's court, which had deprived her of a piece of property to which she had the lawful title, and William Balderston, editor of the Boise (Idaho) Statesman, who testified in regard to political affairs in his state.

At the afternoon session, Mr. Birdsell was cross-examined. He said he severed his connection with the Mormon Church at the time his daughter was offered rebaptism if she would convert her property to Leavitt, but did not give the date.

Head Falls in Woman's Lap.

"He did," replied the witness. "He had both his hands raised above his left shoulder. The witness testified that the man's head fell into the woman's lap and she placed her hands on top of his head."

Mr. Hazelton said there was a man with him who also saw the shooting. It was this stranger who had called his attention to the cab. Whom the stranger was he

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SMITH ON THE STAND.

Says He Made Political Speeches Only as a Citizen.

WASHINGTON, Dec. 19.—Apostle John Henry Smith, of the Mormon Church, was recalled as the first witness today in the Senator Smoot investigation, and was cross-examined by A. S. Worthington, counsel for Mr. Smoot. Apostle Smith said he had known A. F. McDonald (who died during the present year), who was charged by one witness with having performed a plural marriage in Mexico.

"It had come to the attention of President Lorenzo Snow that McDonald had been exercising the right to marry or seal persons in plural marriages," said the witness. "President Snow instructed me to call McDonald to account. I went to Mexico, but did not learn that any plural marriages had been performed. I never have heard of any president of the church authorizing plural marriages since the manifesto."

Denial was made by the witness that the Mormon Church owned a majority of stock in the sugar manufacturing of Idaho. He was examined concerning his participation in politics in Idaho, and his testimony chiefly was contradictory of the testimony given by Chairman Jackson, of the Idaho state committee, who testified Saturday. He denied that he had said that there had been revelations that certain political tickets should be supported.

Apostle Smith, however, admitted taking a part in bringing about the repeal of the territorial test oaths which practically excluded Idaho Mormons from voting. He said he had made political speeches in Idaho in 1902, but appealed to the voters as a citizen, and not as a member of the Mormon Church.

Apostle Would Lose Caste.

When Mr. Worthington concluded his cross-examination Senator Dabbs asked Apostle Smoot if an apostle could take a plural wife now and retain his standing. "Unless perchance he were handled by the laws of the country," was the response.

"You mean that some Gentile would have to make complaint?"

"No, sir. If submitted to his council I think it would deal with him. I know I would."

Pressed for a more definite answer, the witness said if the fact of a plural marriage should be demonstrated in the courts, an apostle contracting such a marriage would lose his standing.

Attorney Taylor, for the protestants, examined Apostle Smith concerning his knowledge of the alleged marriage of Apostle Abram Cannon and Lillian Hamilton, charged by witnesses to have been performed by President Joseph Smith on the high seas, near Los Angeles, in 1890. The witness said he went to President Smith and asked him if he had performed such a ceremony, and the reply was that he had not. He admitted that if the president of the church had wanted to perform a ceremony of that kind he would be at liberty to do so. "But I believed him absolutely," concluded the witness.

Apostle Smith said he had made inquiry as to who performed the ceremony, but obtained no information on the subject. The witness said he had serious doubts whether Abram Cannon had married Lillian Hamilton.

"Then what is the explanation you made to yourself as to the status of your brother apostle and Lillian Hamilton?" he was asked.

He said he had not concerned himself on the moral question, as Abram Cannon was dead.

Church Can Care for Itself.

see that the guilty person was punished? What about the effect upon the church?"

"The church would have to take care of itself."

The witness said he would take no action in such a case unless he saw the emergency performed. Apostle Smith said there was much contention between members of the church on the subject of the legality of plural marriages, until polygamy was prohibited by the church in President Woodruff's manifesto.

Chairman Burrows drew from the witness some statistics relating to the church, but no register of the total membership. In regard to colonization, Apostle Smith said there is a large settlement in Mexico, and that one-third of the population of Idaho and one-fourth of the population of Wyoming are Mormons. Other states and territories that have large settlements are Nevada, California, Arizona, Colorado and New York, while Iowa has a large settlement of the reorganized Church of Latter-Day Saints, which drew away from the other church because it did not believe in polygamy.

Apostle Smith said that the suspension of the practice of polygamy was the result of a revelation which he would take another revelation to put it in force. "Then the president of the church might put polygamy in practice by revealing a revelation."

"Not unless the people should receive it. Nothing is forced on the Mormon people."

Nearly Lost Her Mind.

Isaac Birdsell, formerly a Mormon, now living at Elmore, Utah, was examined concerning a civil trial in a land case in which he and his daughter were defendants. The case was heard in the bishops' court of Monroe ward, in Utah, where Birdsell and his daughter were charged with un-Christianlike conduct. James E. Leavitt brought the action to obtain possession of 16 acres of land which he claimed to have purchased from the Birdsells, but to which he did not have title. Mr. Birdsell lost the case, and it was decided against him also in the high court, where Birdsell appealed, and appeal was refused by the officers of the first presidency, the higher court.

Before an appeal to the first presidency was attempted the witness said his daughter was given notice to carry out the verdict of the church courts, or the first presidency would take action by cutting her off from the church. Records in the case were introduced, showing that Cora Birdsell, the daughter, was excommunicated in June, 1903. Mr. Birdsell said that the decision so wronged his daughter that she became so nervous she could not sleep, and appeared to lose her mind. Her condition was brought to the attention of the president of the state, and her parents were told their daughter would be tormented and led by evil spirits until she had complied with the decision of the church court in regard to the land, in which event her baptism was promised her.

Forced to Deed Property.

Later she was re-baptized in the church, and then made the deed conveying the land to Leavitt. The witness said his daughter sent word to him by her mother that she had been forced to deed away the property in question.

William Bud, of Paris, Idaho, was recalled by counsel for Mr. Smoot. He said that as a bishop of the Mormon Church he has not entertained a case involving the right of a woman to her property since the manifesto.

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Keeps Law in Theory.

Apostle Smith was recalled and questioned by Chairman Burrows concerning the immigration from foreign countries. He had testified that from one-third to one-half of the converts to the church came from Europe. The immigrants, he said, were in charge of an experienced man and brought over on steamships with which the foreign missionaries do business. There are about four sailings a year, he said. To Mr. Taylor he was present at the meeting at which Mr. Penrose was elected an apostle. The fact that Mr. Penrose was a polygamist was not mentioned or thought of, and he added:

"That question does not enter into the election. It is settled in our country that the people must obey the laws of the land."

"Do you," said Mr. Taylor.

"But you have not succeeded very well," asked Chairman Burrows.

"Well, not so far."

Straight Tip From Salt Lake.

Apostle Smith was then discharged, and William Balderston, editor of the Boise (Idaho) Statesman, said formerly connected with the Salt Lake Times testified in regard to political conditions in Utah about the time of the issuance of the Woodruff manifesto and in Idaho after 1901. Asked concerning the passage of a resolution calling for a constitutional convention, which was believed by Gentiles to be for the purpose of repealing the Idaho test, he said that during the time of the manifesto Apostle Smith asked him if he thought the time had come when an amendment could be made to the constitution to eliminate that portion, "so distasteful to the people." Shortly afterward the resolution passed the House and Senate without comment.

The witness said that polygamists living in Idaho have increased, despite the fact that there have been few plural marriages within the state. He said that up to the late campaign both political parties in Idaho were disposed to go to Salt Lake to get a straight tip as to which would get the Mormon support.

Taylor asked if he got this tip, and received the response, "Yes, but they never knew whether it was straight."

It was brought out by Mr. Taylor that the Idaho Attorney-General is reported to have taken a plural wife within the last two or three years.

Religious Classes After School Hours.

A. C. Nelson, of Salt Lake, State Superintendent of Public Instruction, and a Mormon, was sworn in. He is now making an investigation of the extent in which religious classes are maintained in the schools. Answers have been received, he said, from all the county Superintendents except two. Classes are held in about 300 buildings. These classes are assembled after the adjournment of the regular school day, which varies from 2:30 to 5 P. M.

Nelson read a letter, which he had sent to all school superintendents, calling attention to a statute prohibiting sectarian teachings in the public schools. So far as he had information, Mr. Nelson said that the schoolteachers usually taught the religion classes.

Smoot Knew of Investigation.

On cross-examination Mr. Nelson was asked if Senator Smoot had known matters relating to religion classes had been discussed.