

MOTION TO REOPEN DENIED.

PLAINTIFF DISCOVERED A NEW WITNESS.

More Testimony for the Defense in the Austin-Wilcoxson Case.

When the Austin-Wilcoxson case was resumed before Judge Ellison yesterday morning, Attorney Grove L. Johnson rose in his place and said:

"We desire to move to reopen the case for the plaintiff, for the purpose of admitting the evidence of Mrs. G. B. Stevenson, and we are ready to offer proof that until recently we had no knowledge that Mrs. Stevenson knew anything whatever about the case."

To make such proof the plaintiff took the stand and testified that she desired the case reopened in order that Mrs. Stevenson might be permitted to testify; that she only recently learned, through Mrs. James Faris of this city, that Mrs. Stevenson knew anything about the case; that she had met Mrs. Stevenson only once, years ago, and that until she received the letter from Mrs. Faris she had entirely forgotten that she existed.

Mrs. G. B. Stevenson of Oakland being sworn, testified that from 1875 to 1881 she lived in this State, at Placerville, that during the latter year she went to El Paso, Tex., and returned to California two years ago. Since which time she had lived in Oakland. She saw mention of the case on trial in the newspapers, and wrote Miss Austin, through her cousin, Mrs. James Faris, that if her testimony would be of any use to her cause, she would come and give it. The letter was produced and read, and was to the effect that Jefferson Wilcoxson had told the writer and her husband in the course of a conversation held shortly after plaintiff came to California, "That you (Amanda P. Austin) were now his child—that you had come to California with the understanding and determination to live with him and care for him as his own child as long as he lived, and when he died you were to be handsomely provided for, as under the stipulation, you were to be his largest legatee."

Witness said that prior to writing the letter she had told no one what she knew about the matter, and had not known of any litigation until she read of it in the newspapers. Mrs. James Faris was sworn and testified that she first learned that Mrs. Stevenson knew something about the case on Monday last, when she received the letter from her cousin, Mrs. Austin. Witness said that upon receiving the letter she opened telephonic communication with Miss Austin and informed her of its contents. She said she had never mentioned the case to Mrs. Stevenson, either in a conversation or by letter, as she did not know the latter knew anything about it. Upon the showing made Attorney Grove L. Johnson requested that the case be reopened, submitting that the materiality of the evidence was self-evident. He thought that to deny the motion would be to rule out evidence of the greatest importance to the plaintiff.

Attorney H. W. Johnson objected to the reopening of the case on the ground that due diligence had not been shown by the plaintiff. He contended that the present was not a proper time for the exercise of the discretion of the court; that it was not a matter which appealed to the court; that due diligence had not been shown by the plaintiff and that the evidence, if admitted, would be cumulative and not corroborative.

Grove L. Johnson said the evidence he sought to introduce was not cumulative, but was corroborative of the very contract itself. He called attention to the fact that two witnesses only had testified concerning the alleged contract, and that the third one, would, he thought, prove the contract, and her testimony would be stronger than that of either of the other two. He regarded the evidence as being of vital importance. The plaintiff, he said, was willing to adjournment of the case, if they desired it, to permit them to examine concerning the credibility of the witness.

Judge Ellison said he thought the proposed evidence was merely cumulative, and denied the motion to reopen the case. Then Attorney Grove L. Johnson insisted, inasmuch as the letter had been admitted, that he should be permitted to place Mrs. Stevenson on the stand to testify that her statements set forth in the letter were true, and that she would have so testified had her evidence been admitted by the court.

An objection was overruled, and Mrs. Stevenson was sworn and testified that the statements in the letter written by her were true, and that she would so have testified had the case been reopened.

Then the attorneys for the plaintiff proceeded to read the cross-examination of the deposition of Lulu Wilcoxson, taken at St. Louis, Mo., prior to the opening of the case, and the deposition, which for the past several days had been administered in homeopathic doses, was finally disposed of.

C. F. Silva of this city, formerly foreman of the Vernon ranch in Yolo County, once owned by Jefferson Wilcoxson, was the next witness called. He left the employ of Mr. Wilcoxson in 1877 or 1878. Prior to that time deceased had been in good health, except on one occasion when his foot or ankle was

hurt. Subsequent to 1878 witness had business relations with Mr. Wilcoxson and on one occasion Amanda Austin entered the room with the witness attending to some business. She had been on a trip, and witness asked her if she had had a good time. She replied that she had. Witness suggested that such trips were expensive. Miss Austin said they were, but that "Uncle Jeff" paid for them, and she did not know how she would ever repay him.

H. V. Stovall, foreman of the Stovall-Wilcoxson Company ranch, was the next witness called. A question as to whether in 1885, in the course of a conversation with him, Jefferson Wilcoxson, speaking respecting his provision for Amanda P. Austin, had said that he had decided to make some provision for Amanda; that he first thought he would put it in escrow and deliver it to another person for her, but that he had at last concluded to indorse directly to her such property as he desired her to have, and that he had only just done so, met with an objection on the ground that the conversation was not held in the presence of the plaintiff. The objection was sustained and the question remained unanswered.

Witness said that prior to 1895 Jefferson Wilcoxson's health had been good, and that he had been very active in attending to his business. His health first began to break in 1885. He frequently made trips to the springs, and about three-fourths of the trips he made alone, Miss Austin being with him about one trip in four.

ATTERNOON SESSION. Miss Kate L. Stevens, who lives at Woodland, Yolo County, and who as a grand niece of deceased succeeded to a one-thirtieth interest in the estate left by him, was next called. She said she had never been intimate and friendly with Amanda Austin. During the last few years of Jefferson Wilcoxson's life she saw him once a month on an average.

Witness said that shortly after the will had been read she had had a conversation with Miss Austin, in the course of which the latter said: "I'm not disappointed. If Uncle did not want me to have anything, I don't want it." In April, 1888, subsequent to Jefferson Wilcoxson's death, witness saw Miss Austin at Applegate, and at that time she said she intended bringing suit against George Wilcoxson as executor of the estate, but did not mention any specific amount she intended to sue for.

The court would allow no negative questions, or such as tended to show that plaintiff had said nothing about the existence or non-existence of a contract between her and Jefferson Wilcoxson.

Witness said she had suggested to Miss Austin that if she brought suit it ought to be for a large sum, so that in case a compromise were effected she would get something out of it. Amanda had agreed with her. Miss Austin told witness that another time that she had proof that there had been a codicil to the will, and that it had been destroyed by burning, and that Jefferson Wilcoxson had intended giving his money, etc., to herself, Polly McGowan and Mrs. Mouser. Her proof consisted of a statement made to her by Mr. Robin. Plaintiff was of the impression that "Uncle Jeff" intended to intrust some thing to Mr. Robin, but was afraid that the latter would pass away before he (Wilcoxson) should, and, therefore, refrained from doing so.

Cross-examined, witness said she had no recollection of having told the plaintiff at Applegate that she believed she (plaintiff) was entitled to the money, certificates, etc., found in the safe.

J. F. H. Forbes of Williams, Colusa County, Secretary of the Stovall-Wilcoxson Company, was next called. He had been in the employ of Jefferson Wilcoxson from 1874 until his death. Witness said he thought Jackson Wilcoxson never kept money in the safe, (Jefferson and Jackson had their offices in the same room.) He thought it was Jackson's custom to deposit his money in the national bank of D. O. Mills

Witness said that prior to 1895 Jefferson Wilcoxson's health was excellent. He thought that Miss Austin accompanied Mr. Wilcoxson on about four out of six of the trips made by him to Williams. Jefferson Wilcoxson, witness said, was a very busy man and witness thought that prior to 1885 he did not need the attention of a nurse, but the question and reply were stricken out as calling for the opinion of the witness.

Mrs. Jennie Brown of this city was next called. She had from May, 1880, until February, 1881, been employed by Jefferson Wilcoxson to do general housework at his ranch near Georgetown, in Yolo County. Miss Austin again from September, 1882, to September, 1884, she was again employed, and did all of the housework. Prior to 1880, witness said, Mrs. Yannels did the general housework at Mr. Wilcoxson's home. Jefferson Wilcoxson personally superintended the household. Miss Austin was absent much of the time attending art school in San Francisco. Jefferson Wilcoxson had a spell of sickness prior to the holidays of 1881, and witness thought Miss Austin was at that time visiting in Yuba City. Jefferson Wilcoxson, witness said, was inclined to resent attentions during his illness. Except on the occasion mentioned his health had been very good, regardless of the weather. Miss Austin, while at the ranch, devoted all of her time to her painting.

In 1882, witness said, she had asked Miss Austin to allow her to clean up her studio once a week, but the latter said that she could not afford it; that "Uncle Jeff" was not then doing anything for her.

Mrs. J. W. Hughes was the next witness called. On one occasion about four years ago she had had a conversation with Amanda Austin, in the course of which the latter said, "If Uncle Jeff don't want it, I don't want it." Again after Jefferson Wilcoxson's funeral, witness had concluded with plaintiff, and told her she was sorry she had not been mentioned in the will—that she had always hoped she would be. Plaintiff had cried, and replied: "If Uncle Jeff did not want to leave me anything I don't want it."

Mrs. Annie H. Clinkscales of Carrolton, Mo., a sister of Judge J. W. Hughes, was next called. She resided in California and stayed with Mr. Wilcoxson in 1885. At that time she and Amanda made their own beds, but did nothing else in the line of housework. On one occasion, while at Dr. Austin's home in Carrolton, Mo., Dr. Austin, in witness' presence, said that they ought not to have let Amanda go to California, but that they had done so because they knew Jefferson Wilcoxson could do better by her than they could. In the same conversation he said that Amanda had spent twenty years of her life with Jefferson Wilcoxson, and it was but natural to suppose that she would provide well for her. He also said that on one occasion Jefferson Wilcoxson had wanted Amanda to return home, but that she would not do so.

and that they had missed it—that they should have had her return or come to an understanding with Jefferson Wilcoxson concerning her.

Josephine W. Smith of Fayette, Mo., was next called. Jefferson Wilcoxson was witness' uncle. Witness visited California in 1873, and again in 1883. In the latter year she was in the State seven or eight months. Upon her arrival here Miss Austin was attending a school of design in San Francisco, and before she left, opened an art studio in this city. Jefferson Wilcoxson was in good health at that time.

Jefferson Wilcoxson on one occasion told witness that Amanda was through with her art education and was in condition to make her own living, and requested witness to prevail upon her to return to Missouri with her; that he was very busy, and could not leave to attend to his business unless he took her along or left her unprotected. Witness had accordingly attempted to prevail on Amanda to return to Missouri, urging the reasons presented by Jefferson Wilcoxson, but Amanda had replied: "Never! In going to open an art studio, and as soon as I am able, you know, John and I are to be married."

After a long argument by the attorneys, the court allowed the witness to state whether or not Miss Austin had become engaged to be married with the consent of Jefferson Wilcoxson. Witness said such was the case.

Witness during her visit in 1885 talked with Amanda respecting Jefferson Wilcoxson's division of his property. She told Amanda that "Uncle Jeff" had told her if his relatives would let him settle up Jackson Wilcoxson's estate as he wanted to do, he would leave it all to his nieces and nephews.

Amanda seemed pleased at the statement, and said she had always thought "Uncle Jeff" intended to leave his property to "Uncle Harrison's" family.

At one time Jefferson Wilcoxson told witness he had worked all his life for his relatives and he wanted them to get his wealth, and that he had fixed it up so as to keep it out of the hands of lawyers and courts. Amanda, who her present, said she would never bring suit to break his will, and that if he didn't want to give her anything he could keep it. At another time Amanda told witness that "Uncle Jeff" had given her money to attend the World's Fair, and she did not expect him to do anything more for her.

Witness said that "Uncle Jeff" always preferred to wait upon himself—always brushed his own clothes, etc. He required no nursing or attendance when he was ill. During a visit in 1882, witness asked Miss Austin to return home with her, but she refused.

Before taking a recess until this morning, Judge Ellison, in answer to a question, stated that the court would hold on Tuesday next (election day), unless the case was finished before that time.

Articles of Incorporation. The following articles of incorporation have been filed in the office of the Secretary of State:

The Las Animas and San Joaquin Land Company. Principal place of business, San Francisco. Capital stock, \$250,000, with \$1,000 subscribed. Directors—Henry Miller and David Brown of San Francisco, J. Leroy Nickel of Menlo Park, C. W. Merritt of Oakland and Henry Miller, Jr., of Gilroy.

The Saxton-Hoadley Contracting Co. Principal place of business, San Francisco. Capital stock, \$20,000, with \$100 subscribed. Directors—Joseph C. Saxton, Milo Hoadley, John G. North, William M. Forand and W. A. Richardson of San Francisco.

The Chinese Empire Reform Association. Principal place of business, San Francisco. Directors—Ho Lee, T. Y. Hee, Chin Gang, Soo Hoo Fong, C. Bek, Ong Fon, Hong Seck, Lee Quing, Fong Hing, Louie Lun and Chuck King Yee of San Francisco.

The Yukon Condo Oil Company. Principal place of business, San Francisco. Capital stock, \$250,000, with \$2,250 subscribed. Directors—Henry J. Crocker, Wendell Easton, C. S. Benedict, F. W. Sumner, Prince A. Poniatowski and John P. Marshall of San Francisco, Geo. Easton of Los Angeles, F. W. Henderson of Red Bluff.

The Ocean-side Co-operative Association. Principal place of business, Ocean-side. Directors—M. W. Spencer, I. H. Johnson and A. C. Wentworth of Ocean-side, D. W. Gordon of South Ocean-side and W. G. Young of San Luis Rey.

Weather Reports. The Weather Bureau reports show the highest and lowest temperatures yesterday to have been 65 and 42 degrees, with light to moderate southerly and northerly winds and partly cloudy weather prevailing.

The barometrical readings at 5 a. m. and 5 p. m. yesterday were 30.13 and 30.06 inches.

The highest and lowest temperatures one year ago yesterday were 74 and 41 degrees, and one year ago to-day 76 and 45 degrees.

The average temperature was 54 and the normal 57, showing yesterday to have been 3 degrees cooler than usual for the second day of November.

River, 11 feet and falling.

Officers Elected. The Sons and Daughters of the Sacramento Pioneers have elected the following officers for the ensuing year: President, Flora E. Luther; Vice President, Bella Johnston; Secretary, Annie Luther; Treasurer, Mrs. Mattie Edinger; Marshal, Mercy Parsons; Directors, Ella McCleery, Bell Arenz, Flora Luther, Bella Johnston, Mrs. Alice Martin, Mrs. Mary Fitzgerald, Mrs. Wise, Mrs. Cadogan and Mercy Farnsworth.

Railroad Hospital Report. Statement of patients treated at the Railroad Hospital during the month of October, 1899: Number of patients in hospital October 1st 30, admitted during month 96, discharged 62, died 3. Number of patients remaining in hospital November 1st 31, number of outside patients treated at hospital 553, number of residence visits 113.

Petition to Sell Personal Property. The executors of the estate of Charles H. Huelsman, deceased, have petitioned the Superior Court for permission to sell a large quantity of wood and charcoal belonging to the estate. Holl & Dunn are their attorneys.

An invaluable aid in the treatment of the grip will be found in the famous old Jesse Moore AA Whisky. Sold by all druggists.

Examined for Insanity. Manuel Joseph was examined yesterday for insanity by Drs. Wagner and Baldwin and will be committed to the Stockton asylum.

The Best Prescription for Malaria and Fever is a bottle of Grove's Tasteless Chills Tonic. It is simply iron and quinine in a tasteless cure—no nausea.

POLICE PICKINGS.

Cases Continued or Dismissed Yesterday.

In the City Justice Court yesterday the case of George Bohner, charged with disturbing the peace, was dismissed at the request of the prosecuting witness, a man named O'Brien.

The case of Harry Davis, not charged, was continued till the 8th inst. Mrs. Mason, charged with disturbing the peace of Ike Johnson, was discharged at the evidence was heard.

The case of Albert Dias was continued by consent till the 9th inst. The case of C. Sweeney, not charged, was continued till to-day.

The Saturday Club. The Saturday Club will inaugurate the season of 1899-1900 by reconvening to-morrow at 2:30 p. m. in the Y. M. C. A. hall, Fifth and J street. On that occasion Miss Alma Berglund of San Francisco will give a song recital. She is represented as an accomplished artist in that line, and an entertaining in an artistic and very engaging manner. The club expects a full attendance upon this, the opening of the new season.

Appraisement Filed. Thomas Fox, W. A. Gett and J. P. Dalton have filed their inventory and appraisement of the estate of James Ewing Quaid Hicks, which consists of a half interest in a life insurance policy amounting to \$1,300 and of real property valued at \$6,400. Arthur E. Miller is attorney for the estate.

Found Guilty. A. Osterloh and C. N. Smith were found guilty in the City Justice Court yesterday of disturbing the peace in a lodging-house and will be sentenced to-morrow.

Resignation Accepted. Governor Gage has accepted the resignation of Abbot Kinney as a member of the commission to manage the Yosemite Valley and Mariposa Big Tree Grove.

Delicious Jellies. Quinces and wild grapes will make the most delicious jelly. We can only furnish you for a few days. Quinces, 2c lb; blue plums, 4c lb; wild grapes, 4c lb. T. H. Pacific, J, near Eighth street. D. Dierssen Co.

Fine Millinery at Cut Prices. Do not be prejudiced to J street, but come over and see our fine window display. Just for the season a hat to become every face. At the Sacramento Home Supply Co., formerly Red House.

Of Public Interest. The organization known in the past as the Second Regiment or Second Infantry Band is no longer identified with the regiment. It is now the Militant Band with its old membership.

Charles A. Neale, leader; W. E. Platt, manager, 407 Box 87, Office Kohler & Chase musical warehouses, 721 K street.

Price Fight Bulletin. While you are waiting for bulletins to-night smoke a La Primera, and your disappointment if you lose will be softened. A. Coolit, distributor.

Jaffe's Catarrh Cream relieves headache and shortness of breath with a few treatments and will cure acute cases of catarrh and cold in the head in a few days. For sale at the Sanitary Liquor Store, 321 K street.

Hardman pianos never lose their tone; they have no superior. Established in 1842. Sold only by the Wiley E. Allen Co., 415 K street.

Silver Sheaf Whisky appeals to discriminating consumers, with whom excellence and purity of the liquors they drink is of the first importance. Fred Raschen, 514 J street, sole agent.

Families who want a straight, unadulterated Kentucky bourbon whisky, delivered at \$3 a gallon, should try Blauth's Glenbrook. Phone for it.

A new line of silk umbrellas just received from the factory. Prices from \$2.50 up. H. C. Hotfiter, jeweler, 328 K street.

Chunks for heating stoves. F. Cady, 215 L. Both 'phones.

Fall opening of candies next Saturday at Fishers', 822 K street. Get souvenir.

Dr. Weldon, 806 1/2 J street. Careful, painstaking, skillful dental work.

Transfer Co., 906 K, either 'phone. See Capital Sac. Van & Storage Co.

All kinds of natural gas heating stoves. Tom Scott, 303 J street.

Killeen, sign painter, removed to 1006 Sixth street. Cap. 'phone 877.

MARRIED. BAKER-BROWN—In this city, November 1st, at noon, at the home of the bride, by P. P. Rev. S. C. Adams, Fred Baker to Miss Eliza Brown, both of Sacramento, Cal.

TOWLE-BRICE—In Stockton, October 25th, by Rev. J. McKinnon, George G. Towle to Bertha B. Brice of Stockton.

BORN. PIERCE—In this city, October 22d, to the wife of F. H. Pierce, a son.

DIED. MAXWELL—In this city, November 1st, Susan E. Maxwell, mother of A. C. Dallas, James M. Dallas, Mrs. Mary E. Dallas, Benjamin F. Dallas, Fred Maxwell and Ethel J. Morton, a native of Westport, Mo., aged 38 years, 7 months and 4 days.

Friends and acquaintances are respectfully invited to attend the funeral of A. M. E. Church, Seventh street, between G and H. Interment Helvetia Cemetery.

WILLIAMS—In this city, November 2d, John S. Williams, father of Mrs. Margaret George, grandfather of Harry E. and Lizzie George, a native of Kentucky, aged 93 years, 6 months and 3 days. Funeral notice hereafter.

CASTORIA For Infants and Children. The Kind You Have Always Bought

Bears the Signature of J. C. Watson

FOR CHAPPED LIPS, the old Quaker said, "Thee must keep the chaps off, and you can do it by the use of Green's Witch Hazel Lotion, 25 cents a bottle, for chapped lips and skin. It is soothing and softening to the most tender flesh, and allays all irritation.

GREEN'S PHARMACY, Golden Eagle Hotel Building, SEVENTH AND K STS.

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Black Crepons. Best English and French productions. Mohair and wool, silk and wool; looms never created richer weaves.

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W. P. FULLER & CO. 1016-1018 SECOND ST. SACRAMENTO. NOW IS THE TIME TO PLANT BULBS.

C. C. NAVLET & BRO. Florists and Seedsmen, 520 K Street. Select Your Holiday Presents

DAN HYMAN'S (Successor to J. HYMAN, Jr.), 506 J Street. A small deposit will secure any article.

LINE UP! GET A DOZEN NICE ripe doughnuts. A new crop just in 10c a dozen. KENT & SON'S New York Bakery, 1316 Third street.

TIMELY PLUMBING THE season is here. Attend to your roofs. Other plumbing also at reasonable figures. CARLOW & MILLER, 1239 J st.

WINTER'S COMING! Be ready for it and repair your buggy and wagon top. Make them waterproof. J. E. HEISLER, 1215 J street.

CHAS. STUDARUS, Dealer in coal of all kinds, coke and charcoal, hay and grain. Fifteenth and K streets. Both 'phones.

WOOD, COAL, COKE, charcoal and kindling of all kinds. For the best go to McCaw & SON, 518 L street. 'Phone: Cal. 538; Sunset east 32.

GREEN'S PHARMACY, Golden Eagle Hotel Building, SEVENTH AND K STS.

OLD BREWERY ALE 28 M. CONDENSED BEER. SEND THIS WEEKLY UNION TO YOUR friends in the East.

RAILROAD TIME TABLE. SOUTHERN PACIFIC COMPANY (PACIFIC SYSTEM) OCTOBER 29, 1899. Trains Leave and are Due to Arrive Sacramento.

Table with columns: Leave (For), TRAINS RUN DAILY, Arrive (From). Lists various routes and times for trains between Sacramento and other cities.

ALL ROADS LEAD TO THE TICKET OFFICES of the Southern Pacific Company.

WAYSIDE NOTES ALONG THE SOUTHERN PACIFIC ROUTE is a complete guide to this popular winter route between San Francisco and New Orleans.

CALIFORNIA SOUTH OF TEHACHAPI is a guide to Southern California. The story of thrift, progress and attractions in the naturally charming region reads like a romance.

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STATE HOUSE HOTEL, Corner Tenth and K Sts, Sacramento. BOARD and ROOM, \$1.25 to \$2.00 per day.

FIFTH AVENUE HOTEL, 1011, 1015 FIFTH STREET (BET J AND K). Renovated throughout and with electric lights in every room.

THE ARCADE HOUSE, 1006 1/2 SECOND STREET, ONLY THREE blocks from depot. Strictly first-class and open day and night.

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