

The real interest in the trial, the startling disclosures, if any, will be made when the defense gets to the bit. It is quite likely that that event will occur this afternoon, and it is possible that the case may be ended tomorrow. Every foot of the ground is being fought stubbornly and skillfully, for long preparation has been made. Niceties of practice and great depths of legal learning are disclosed and altogether the case furnishes a greater scope for a display of general legal ability than any other that has ever been tried here. There have been many more important cases, for instance, in mining and water litigation, but then the lawyers knew just what they would have to do and what their opponents would likely do. This is a kind of duel in the dark.

July 1, 1899

IN SUNSHINE AGAIN

Edward Irvine Emerges From Shadow of Twenty Years.

Acquitted Last Night of a Charge of Adultery—The Closing Day a Sensational Trial in Which a Cow Figured.

Edward Irvine emerged last night from a shadow in which he has walked for nearly twenty years. For the last two years it has been so dense that he has groped his way. A jury in the United States court acquitted him of a charge of adultery. It is hardly necessary to state that the charge was made not as a reflection upon the morals of the defendant, but because the offense of bigamy had been outlawed.

The prosecution practically closed its case on Thursday night. On the motion of United States Attorney Morrison it was reopened yesterday morning and the first and only "strict proof" of Mr. Irvine's former marriage was offered. It was a certificate made before a notary public of New Brunswick by a minister of the gospel who had performed the ceremony thirty-two years ago. Its admission was strenuously opposed by the defense on the ground that the certification was defective. The objection was overruled and the document was admitted. The fact of the New Brunswick marriage having now been established the case was diverted of some of its complications. But the defense was still left with two avenues of escape. One was the alleged invalidity of the marriage for the reason that Mrs. Irvine No. 1 was only sixteen years of age when the marriage was solemnized, the Canadian law requiring that she should be twenty-one or should have the consent of her parents or guardians. There was no evidence presented that such consent had been procured. The other avenue was opened in the course of the testimony of the defendant the first witness of his side on the stand.

His testimony was lacking of the interest to which the morbid had looked forward. He admitted the story of the marriage and told with some unimportant additions only what had been already known, until he disclosed a thing which was of great value to him. He said that in 1873 he met in Phoenix a man named Johnny Rosch, whom he had known from boyhood in New Brunswick and who told him that his wife was dead.

The witness was searchingly cross-examined by Mr. Morrison. He said that he had never tried to communicate directly with his wife, but for some time after his departure he had kept himself posted regarding her by means of communication with a friend in New Brunswick. Of his departure he said that his life with Mrs. Irvine No. 1 was unbearable by reason of her fault finding disposition. Within a year after their marriage there was no love in the household and he determined to go elsewhere and repair the mistake he had made.

At one point in the cross-examination there was promise of a sensation. A reflection upon the character of Mrs. Irvine No. 1 was gradually being drawn from the witness when Judge Brett interfered.

Then a cow was introduced which threatened to have as disastrous an effect upon the government's case as another cow had on Chicago. The witness was asked if he did not just before leaving his home sell the only cow and pocket the money. The witness replied that he had sold the cow, thereby relieving his wife of a burden. The animal was dry and useless, but had to be fed. He said, though, that he had divested the proceeds of the sale with his wife.

The importance of the cow episode lay in this: The defense had been trying in vain to break in with a story of the defendant's benefactions to his New Brunswick family, but had uniformly been headed off. The bars now seemed to have been let down after the cow had been driven in, and Judge Baker asked again if the witness had not altogether given his family property of the value of \$15,000 in this way it might be shown that the defendant was the principal and suffering figure in a leg pulling contest covering a period of several years. An objection was made by Mr. Morrison, who disavowed any intention to enter into the financial affairs of the Irvines, but said he had merely meant to show that the conduct of Mr. Irvine was such that he was as much to blame for the separation as his wife. On this representation the court sustained the objection, but in order to keep the record straight the court directed Judge Baker to ask the question and the witness was instructed not to answer it. The jury heard it. J. A. R. Irvine was the next and only other witness for the defense who offered any testimony with any bearing upon the case and his testimony related principally to communication with his stepmother in New Brunswick.

Several other witnesses testified to the reputation of the defendant in this community and the case was over, all but the arguments, which were opened by Assistant United States Attorney T. D. Bennett in a brief, but careful review of the testimony. He was followed in a powerful plea by Judge Baker and he by Frank Cox who with his customary eloquence appealed to the sympathy of the jury, roasted the witnesses for the government and execrated the "New Brunswick party." Mr. Morrison closed the case in an able legal argument.

The instructions were comprehensive and one of them following the language of the statute afforded the jury an opening, if it had no other, for a verdict of acquittal. The jury was instructed if it believed that the defendant after a separation of five years from his wife had information which he honestly believed to be true, that his wife was dead, committed no crime when he married again. Whether he had committed a crime in continuing his relation with wife No. 2 after he had learned that wife No. 1 was still alive was left to the jury to figure out.

The case was submitted shortly after 4 o'clock. The verdict was ready less than four hours later. The defendant and Mrs. Irvine No. 2 were in the court room when it was announced. Mrs. Irvine, who had been self contained throughout the trial, was almost hysterical with joy. She thanked the court, the jury, the lawyers and everybody. "The New Brunswick party" was not present. The verdict was not unexpected.