

THE DESERET NEWS.

TRUTH AND LIBERTY.

No. 21.

Salt Lake City, U. T., Wednesday, June 8, 1887.

Vol. XXXVI.

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
" " three months, " 2 50

Papers sent to subscribers by mail have the names stamped upon them, with figures opposite to indicate when the subscriptions will expire. For instance, John Smith, 4-11-7, means that John Smith's subscription will expire on the 4th day of the 11th month of this year, or November 4th, 1887. Subscribers will please notice the figures on their papers, to see that they have their proper credits, and also to know when to renew their subscriptions, the rule being to stop the paper when the subscription expires.

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

FROM TUESDAY'S DAILY, MAY 31.

Court Notes.

Proceedings in the Third District Court to-day:

F. A. Cornell vs. Wm. H. Remington demurrer to complaint overruled; 20 days to answer.

William Tiedman and Wm. H. Wilson were admitted to citizenship.

A. W. Moore vs. M. H. Lipman; dismissed for want of prosecution.

Protecting Lewdness.

In the case of Ogden City vs. McLaughlin, to-day Judge Henderson sustained the demurrer of the defendant and appellant, stating that he did not think the city had jurisdiction to legislate against the class of offenses of which defendant was charged—lewd conduct. L. R. Rogers represented McLaughlin; N. Tanner, Jr., conducted the case for the city.—Ogden Herald, May 28.

Worship Good.

The Mayor of Provo made a call for the citizens of that town to turn out and clean up the city cemetery on Saturday last. There was a very generous response and those who assembled there worked with a will. By the close of the day two-thirds to three-fourths of the cemetery was put in a very presentable shape, and another call, answered as generally, would put it in a condition befitting a people who esteem their dead so highly. The work is to be commended and we could wish that other cities would follow the example that Provo has set.

Released To-day.

The terms of imprisonment, and thirty days additional for the fines imposed, of Brothers John Stoddard, of Ogden, and Lorenzo Stutz, of Mill Creek, expired on Sunday, and to-day they were brought before Commissioner McKay and underwent a rigid examination as to their property qualifications. They were finally discharged on taking the oath. Brother Stoddard's sentence was six months and \$300, while Brother Stutz received double that penalty, but only served one term, being released through the Supreme Court decision. The wife of Brother Stutz died while he was in prison.

Return of the Remains.

Andrew and Albert Kimball left this city on Sunday morning via the Denver & Rio Grande Western, to meet the remains of their brother, Elder Jeremiah H. Kimball, who had met with a fatal accident while en route for his field as a missionary. Owning to a washout on the A. T. & S. F. the remains were forwarded to this city via the U. P. and U. C., arriving last evening. Of course the two brothers were disappointed in not meeting them.

Some further particulars have been learned relative to the probable cause of death. On the evening of the day on which deceased left this city, he had a fall on the platform at Green River Station, where the train stops for supper. The fall seems to have been occasioned by vertigo, or some similar derangement of the vital functions. He had another similar attack and fall, at or near Grand Junction, Colorado, in the car, but rode about 800 miles before meeting with the final and fatal fall from the train. It is

supposed that he felt unwell in the night. He stepped out onto the platform of the car, and it is probable that he was seized with an attack similar to those which had twice before prostrated him, and that he thus fell from the steps of the car.

It appears that he alighted on his head, which was severely bruised. The exact nature of the injuries that produced death have not yet been learned.

Deceased was born in this city Aug. 15, 1857. The funeral will take place in the Seventeenth Ward meeting-house to-morrow, Wednesday, at 2 o'clock.

A Pleasant Time.

The Tabernacle Choir, to the number of sixty persons, visited the Penitentiary yesterday. Decoration Day, and gave a concert in the dining hall for the benefit of the prisoners. A committee of ladies was on hand an hour previous to the commencement and decorated the hall profusely with flowers. The choir went down in the "Julia Dean" and other conveyances decorated with bunting. The procession was quite imposing. Marshal Dyer, Warden Brown, and his aids did all in their power to make the occasion agreeable. Mrs. Thomas, Miss Bessie Dean and Miss Thomas sang solos which were rapturously received, and George Goddard sang "Hard times come again no more." The pieces given by the choir seemed to be much enjoyed.

By permission of Marshal Dyer, Mr. Wm. Foster sang "Bring back the old folks," with chorus by the choir. The Glee Club, composed of prisoners, also sang a quartette in fine style.

At the close, Roder Clawson, on behalf of the prisoners, returned thanks for the kindness shown by the choir and friends in giving them so delightful an entertainment. C. R. Savage, on behalf of the choir, expressed pleasure in being able to lessen the tedious hours of those incarcerated within the walls of the penitentiary.

Marshal Dyer said that he hoped that the ladies present would combine with a movement now on foot to benefit the prisoners. He was willing to do all he could to that end, but believed in the strictest and most rigorous discipline towards criminals.

After the prisoners had left the hall permission was given to the visitors shake hands with those whom they called out.

Fruit Cannery.

Mr. G. Huntsman, of Fillmore, was in town to-day. The gentleman has been attracted to Ogden by the prospects of establishing a fruit cannery here. He has a plant capable of turning out 2,000 cans per day, which he is desirous of placing in a good locality.—Ogden Herald, May 31.

EDWARD BRAIN'S CASE.

He is Held to Await Further Investigation by the Grand Jury.

To-day the case of unlawful cohabitation against Edward Brain, was taken up before Commissioner McKay. The complaint charges the offense to have been committed subsequent to January 1, 1886, and the defendant entered a plea of not guilty. District Attorney Peters conducted this, his first case in the Third District, for the prosecution, and Mr. Moyle defended. The defendant wanted to waive examination but this was refused.

Mrs. Mary B. Brain was the first witness. She testified that she was married to the defendant in 1852; she lived in Salt Lake City; did not live with her husband; had not been divorced from him; had not lived with him for nearly four years; he had never been in her house since November, 1883; she saw him ten days ago, when she sent for him; he was also there at their son's death and funeral; she still considered herself his wife; he lived at the brickyard, with his plural wife.

To Mr. Moyle—My husband had a wife when I married him; she was divorced from him, and is now married again.

Mrs. Anna Peters Braine testified—I am married to the defendant; was married February 2nd, 1882; live in the Twenty-first Ward, with my husband, and have lived there since he came from prison; the Court decided I was his legal wife.

The Commissioner fixed the bail at \$2,500, an unusual amount. Mrs. Anna Brain's bonds were fixed at \$300. Mr. Moyle objected to the amount, when Mr. Peters remarked that there would probably be something else, and the Commissioner said that in all cases of a second prosecution the bail would be increased.

Later, when Gen. H. S. Eldredge appeared to qualify as surety for Mr. Brain, he called attention to the fact that the accused had once served a term in the Penitentiary, that he had never shown an inclination to avoid the issue, and that, under the circumstances, it was not at all likely he would try to get away. It was therefore agreed to put on such heavy bail, and

looked more like an affront to crowd him than simply to secure his appearance for trial.

The Commissioner finally reduced the bail to \$1,500, which was given.

A TERRIBLE TRAGEDY.

John H. Burton, the Architect,
Shot Dead on the Street.

THE MURDERER PLACED UNDER ARREST.

At one o'clock on Sunday morning, Architect John H. Burton was shot dead on First East Street by Alfred Martin. The intelligence spread like wildfire through the city, and everywhere was received with a shudder. Death is never welcome, but when it comes in such a shape—when a well-known and peaceable citizen in the prime of life is

SHOT DOWN

on the public highway in the centre of a populous city like this, it sends a thrill of horror through the community.

As soon as practicable after the arrest of the man who did the shooting, Coroner Taylor was notified and at 9 a.m. on Sunday proceeded to inquire into the facts in the case. A jury was summoned who, in company with Coroner Taylor and Dr. J. M. Benedict, visited the residence of the deceased in the Eighteenth Ward of this city, where a careful examination of the body was made, the clothing inspected, and an incision made in the breast in order to determine the exact course of the ball which was the cause of death. The party then (at 12 m.) returned to the City Hall for the purpose of further pursuing the investigation.

The court room was crowded with citizens anxious to learn, if possible, the real cause of the shooting.

The witnesses were excluded from the court room, and were called in singly to be interrogated.

A jury having been previously duly empaneled, the witnesses were sworn and the inquest was proceeded with by placing upon the stand Dr. J. M. Benedict. He testified that he had made an examination of the body of John H. Burton and that it revealed

A WOUND IN THE BREAST,

two inches above and the same distance to the right of the left nipple. It was a pistol shot wound of entrance. The ball had ranged downward a little, and so much to the right that breaking through the lower border of the fourth rib and opening the pericardium, it had passed directly through the right ventricle of the heart.

The doctor being about the size of the deceased, here put on the coat and vest perforated by the bullet and inserted a lead pencil in order to show the jury more clearly the course of the ball. He further testified that the dust on the back of the left shoulder of the coat indicated the direction of Burton's fall. The hemorrhage was light. Death from such a wound would be instantaneous. There were no powder marks on the coat, nor even the smell of powder upon that garment, consequently the assailant must have stood several, perhaps ten feet, distant. The ball was a large one and it did not pass through the body. There was no doubt that the wound in question was the cause of death. Mr. Burton was a studious, honorable gentleman with whom he was intimately acquainted.

Mott J. Ferguson, deceased's wife's brother, testified that Mrs. Burton (wife of deceased) told him that Mr. Burton went out last night between 9 and 10 o'clock. Mr. Ferguson added that he knew it was his habit to take

LONG WALKS IN THE NIGHT,

for his health, sometimes till a late hour. Had known him in one instance out till 2 a.m.

Mrs. Burton was too ill to be present.

H. Christopherson stated that about 1 o'clock, or a little earlier, he was going west along the south side of Second South Street, between First and Second East streets, when he met a man who turned in at a side gate near Busby's alley, opposite the Thirteenth Ward schoolhouse. He was excited and first pulled the gate the wrong way in entering. He then turned, facing the street, and seemed to be waiting for another man who was coming along about one hundred feet distant, in the same direction. Witness went to his room about 200 feet from this gate. About five minutes later he heard a pistol shot apparently from the direction of these men, but paid no attention to it. About ten minutes later he heard another shot—this was after he had retired to bed. He did not recognize the men he saw, but the last one was apparently cool and undisturbed, while the one at the gate was much excited; the latter had on a coat with bright buttons. Knew Burton and Martin; the latter had not a very good reputation. Mr. Burton was a nice man—had known him four years.

Frank Pitman said that he was up stairs, opposite the City Livery Stables. A few minutes before one a.

m. he heard a shot fired. It was two or three minutes later before the second shot was fired. He heard a man shortly after the first shot say to a man on the bridge at the southeast corner of Second South and First East streets,

"STAND THERE!"

They then walked down to the stable. It was Burton and Martin. Martin told Burton twice to throw up his hands. The second time he said, "I've got you now." Then told him a third time to throw up his hands, and told Tom McCoy to search him (Burton). Martin held his pistol inclined downward—his hand trembled. Burton said repeatedly he would go to the police office. Finally Burton refused to hold up his hands any longer, and, using a vulgar expression, told Martin to shoot. Martin then fired and Burton cried out, "What's the matter with you,

ARE YOU CRAZY?"

then groaned and fell to the ground. Martin hurriedly searched Burton's clothes, and seemed to pull something from his own coat, and then appeared to take it from Burton's body. It was a revolver with a white handle. Don't know that there were two revolvers. The men were nine to 12 feet apart when the shot was fired.

Dr. Allen Fowler testified: "Mr. Burton was employed by me for the Natural Mineral Water Co., and he was with me till about 6 p.m. Saturday evening. I bought him a ticket for Soda Springs. He was to have gone Friday morning. He had been busy about company affairs all day, and was in good spirits and perfectly sober. He was a model young man. I never saw him drunk in my life, though he has been in my office nearly every day for months." (The railway ticket referred to was returned to the doctor.)

Thomas McCoy was the next witness and said that at 1 a.m. was in the City Livery Stable. He knew Martin and Burton by sight. Witness was called out by a man named Evans, and saw Burton on the sidewalk holding up his hands. Martin stood seven or eight feet north

HOLDING A GUN

on him. When I came out Burton said "Here's a man that knows me." Burton kept dropping his hands to his coat lapels. Martin told him not to make a move or he would "kill him," and asked me to search Burton. The latter jumped to one side and using some vulgar language said, "You shoot." Martin fired. Burton exclaimed, "What the hell are you doing? Are you crazy?"

Witness then described the search as the preceding witness had done except that Martin, while holding up the white handled pistol, exclaimed, "You see what I have taken from him." He then offered witness the pistol, but immediately started north and was met by Policeman Barlow, who arrested him before he had gone forty feet. He did not give witness or any one else the pistol. Witness saw

BUT ONE PISTOL.

Burton said something about looking in the window.

Luke R. Gollightly's testimony was similar to that of the preceding witnesses except that he said that when Martin ordered Burton to keep his hands up the last time he said, "I won't hold them up any longer. You shoot." Then Martin fired. Burton's hands were down by his side. Martin was excited, but Burton was apparently calm. Saw only one pistol like the one in court. Thought he heard Martin say something about looking into a window. Martin walked rapidly away. John Gray's testimony was the same as that of the last witness, except that he declared that Burton said "He saw me looking through the window," and that Martin said he fired the first shot in the air to scare Burton.

Obas. Evans' testimony was similar except that Martin said he would "kill him (Burton)"

FULL OF BULLET HOLES."

Burton groaned just before he fell, and Martin said, "You've been looking in the window." Burton then said, "I was looking in a window up here, and Martin began to pick a quarrel." Burton had held up his hands fully ten minutes. He only used one offensive remark.

Officer Joseph S. Barlow being interrogated about Martin, said he knew him by sight—arrested him just north of the livery stable on First East Street. He was running north slowly. He said "Come down here and the boys will tell you the threats he made." Witness searched him and found a bottle of medicine, a bottle of ale and that pistol (pointing to the weapon in court) in his person. It was a nickle-plated bull dog, with two chambers empty. It was just as witness found it on Martin, except that it then smelt of freshly burned powder. Witness examined Burton when he went back, but found no weapon on him.

THE VERDICT.

This concluded the examination, and the jury returned the following verdict without leaving the room:

Territory of Utah,
County of Salt Lake.

An inquisition holden at the City Hall, in the Fifth Precinct of Salt Lake City, on the 29th day of May, 1887, before George J. Taylor, coroner of said county, upon the body of John H. Burton, there lying dead, by the jurors whose names are hereunto subscribed.

The said jurors on their oaths do say, from the evidence presented, that he died at about one o'clock a.m., Sunday, May 29th, 1887, on First East Street, between Second and Third South streets, from the effects of a gunshot wound inflicted by a pistol in the hands of Alfred H. Martin, and they further find that the shooting was done wilfully, deliberately, maliciously, and with premeditation (and malice aforethought).

In testimony whereof, the said jurors have hereunto set their hands the day and year first above written.

I. M. BARRATT,
T. C. PATTEN,
JETER CLINTON,
Jurors.

GEORGE J. TAYLOR,

Coroner.

To-day a preliminary examination into the

CHARGE OF MURDER

against Martin was commenced before Justice Pyper, Messrs. Moyle and Ferguson prosecuting, and Major W. W. Woods defending.

Several witnesses were examined, but nothing of importance in addition to the testimony at the inquest was brought out.

The defendant, as he sat in court this morning, did not appear to be greatly concerned over what had taken place. In fact, he appeared very indifferent. He is about five feet ten inches in height, sandy complexioned, and of slender build. He was formerly a soldier, but has lately been engaged as bar tender in the O. K. saloon on Second South Street. His wife was also in court to-day, and watched the proceedings with great anxiety.

THE MURDERED MAN

was about thirty years of age, and born and reared in this city. He was an architect by profession, and it was customary for him, when studying out problems or designs, to walk about in the night for several hours at a time. On Saturday night, about 9:30, he left his wife, saying he would take a walk up the cañon. This he did, and was seen returning a couple of hours afterward. From that time nothing is known of him until he appeared near the corner of Second South and First East streets. From what can be understood by his remark about "looking in at a window," and the statements of Martin, it would appear that if Burton was really the man (of which there is some doubt,) that he probably passed along First South Street, and seeing a light in the saloon after midnight, looked in, and was in that position when Martin came out and went east. That he then went along in the same direction, unconsciously following Martin, until Busby's lane was reached, when he was turned on and compelled at the point of a pistol to go to the stables where he met his death.

So far as can be ascertained from the evidence obtainable, it is probable that

A COLD-BLOODED MURDER

has been committed, as in all the circumstances connected with the event now known, there is not one justifying the crime. The claim of the defendant that he was being followed does not furnish an excuse, for the time that elapsed between their first meeting and the firing of the fatal shot, was sufficient for any excitement under which the defendant might have been laboring to have subsided. There is a pretty general idea that when Mr. Burton was seen looking at the window, that he was taken for a detective or spotter, trying to catch the whisky men, and that in this is a reason for the commission of the crime.

From the fact that the maiden names of the wives of both Burton and Martin is Ferguson, a rumor gained ground that there was a family feud at the bottom of it all. But the two Ferguson families are in no way related to each other, and no feud or quarrel of any kind existed between the men; who were strangers to one another.

The funeral service over the remains of Mr. Burton was to be held at 4 p.m. to-day at his residence in the Eighteenth Ward. He leaves a wife and one child. Mrs. Burton is in a delicate state of health, and feels her loss heavily. She has the sympathy of a host of friends.

Fruit Killed.

Late frosts proved very disastrous to the people of Tooele City, as they almost totally destroyed the fruit crop. All small fruits, peaches and apricots were killed. In fact about all that Tooele City will produce this season in the way of fruit will be a few apples.