tegrity becomes a complete shield of protection against the most skilful web of suspicion and falsehood which conspirators have been able to weave. Good character may not only raise a doubt of guilt which would not otherwise exist, but it may bring conviction of innocence. In every criminal trial it is a fact which the defendant is at liberty to put in evidence; and, being in, the jury have a right to give it such weight as they think it entitled to."

People v. Garbutt, 17 Mich., 9.
People v. Mead, 50 Mich., 233.
Com. v. Miner, 140 Mass., 479.,
Concemi v. People, 16 N. Y., 501.
Harrington v. State, 19 Ohio St., 264.
1 Bish. Crim Prac. 1115-6.
3 Greenl. Ev., 25.
People v. Ash, 44 Cal., 288.
Remsen v. People, 43 N. Y., 6.
Heine v. Commonwealth, 91 Pa. St. 145.
State v. Daly, 53 Vt., 442.
Coleman v. State, 59 Miss., 484.
Wharton's Crim. Ev., 66.

This charge also gave the jury to understand that a man was expected to commit his first offense, and the jury may have been led to believe from it that the offense charged might be one of those crimes that the defendant might be expected to commit for the first time, and that, as a matter of course, if the defendant had a good character and had never been connected with any crime before, he might now be expected to be guilty of this one; that the time had come at last for the defendant to break over the rule of good conduct and commit his first offense, and that this might properly be expected from all men. We think this was an error, and that it was not cured by a subsequent instruction to the jury at the close of a case, where the Court said:

"Gentlemen of the jury, I may have overlooked one important matter. I do not remember now what I said to you in reference to the character of the defendant. The character of the defendant is to be considered by you in weighing all the testimony in the case. If his character, notwithstanding all the evidence in the case, raises a doubt in your mind as to his guilt or innocence, a reasonable doubt, he is to have the benefit of it."

This instruction in no way modifies the erroneous instructions first given; nor does the Court withdraw his first instructions from the consideration of the jury, but leaves it to stand as the law in the case, which it is presumed the Court did not intend to do.

When conflicting charges are given, one of which is erroneous, it is to be presumed that the jury may have followed that which is erroneous.

Grand Rapids & Indiana Railway Company v. Munroe, 47 Mich., 152.
Jones v. Talbot, 4 Mo., 385.
Brown v. McAllister, 39 Cal., 557.
Aquire v. Alexander, 58 Cal., 21.
Plaintiff v. Jameson, 51 Mich., 153.
Murray v. Commonwealth, 79 Pa. St., 311—391.
34 Iowa, 375.
49 Kan., 142.
50 Ind., 42.
95 Ill., 383.
91 Ill., 63.
14 Kan., 174.

The Court also instructed the jury as follows: "The length of time that has elapsed since the murder that is charged was committed and the commencement of the prosecution is not to be considered at all. It is not an element to determine the guilt or innocence of this party, one way or another. Time does not run against the murderer or in his favor. No lapse of time washes out the stains that blood shed by the murderer makes."

This charge was possibly given under a mistake of fact. We think it had a tendency to mislead the jury, and that from it they might infer what the opinion of the Court was as to the identity of the murderer, the degree of the offense and the guilt of the defendant. This homicide was committed thirty-two years ago, and when we consider that the witness Ellen Brown was only five years of age at that time, and that other witnesses had grown old and possibly forgetful with increasing age, we cannot conclude that the length of time that has elapsed since the homicide should not be a strong circumstance to enter into the consideration of the jury in testing the truthfulness, forgetfulness, candor or bias of those left to relate the circumstance of this alleged murder, and as bearing upon the probabilities of the guilt or innocence of the accused.

Hopt v. People, 110 U. S., 574.

For the reason stated the verdict and judgment of the court below should be set aside and a new trial granted.

We concur.

ZANE, C. J.,
ANDERSON, A. J.

UNPAID TAXES.

In the Territorial Supreme Court February 4th in the case of Ephraim P. Ellison, respondent, vs. James H. Lindford, Jr., appellant, Judge Anderson delivered the opinion. This was an appeal from Judge Zane's Court.

Defendant, as tax collector of the city of Kaysville, levied upon and sold a wagon belonging to plaintiff for unpaid municipal taxes levied by said city upon his property. Plaintiff brought this action against the defendant to recover damage for the taking and selling of said property, upon the ground that the taxes were illegal, for the reason that the property on which the taxes were levied was not liable to taxation for city purposes, being situated outside the platted and settled portions of the city, and so remote therefrom as to receive no benefit from the expenditure of the taxes for municipal purposes.

Defendant, by his answer, admitted the seizure and sale of the plaintiff's property as alleged, but claimed that the taxes for which it was taken were legal. The cause was tried to the court without a jury upon an agreed statement of facts. The court held the tax invalid and gave judgment in favor of the plaintiff for $50 and costs, and the defendant brings this appeal from said judgment.

From a plat of the city showing its corporate limits, the platted and settled portion thereof, and the location of plaintiff's premises, which plat is made a part of the record, and from the agreed statement of facts, it appears that the property of plaintiff on which the taxes were levied, and on which he resides, consists of three tracts of land used for farming purposes, and a store, and all within the corporate limits of the city. One tract is situated a little over half a mile from the nearest part of the platted portion of the city. The second tract is situated about one mile, and the third tract about two miles from the platted portion of the city, while the store is about two miles away, at a little place called Layton, on a county road leading to the city proper, and also on the line of the Utah Central railroad.

This so-called "city" is only a small village containing about six hundred inhabitants in the platted portion thereof, and yet its corporate limits include more than twenty-three square miles. It is not shown that the platted and settled portions, or what may be termed the city proper, is likely to be extended in the direction of the plaintiff's premises, nor that any streets, driveways, or other improvements in that direction are contemplated or at all probable; nor is it shown that plaintiff will or can derive any benefit from the expenditure of these taxes, except in that general sort of way in which it may be said that all residing in the country are benefited by good streets, sidewalks, etc., in the town or city where they usually go to transact their business. But this kind of benefit is too slight to make it equitable or just that their property situated in the country should be taxed for city purposes.

The questions involved in this case were fully considered and elaborated by this Court in the case of the People vs. Daniels, 22nd Pac. Rep., 159. That case involved the validity of a tax on agricultural lands for city purposes, and the tax was declared void. In that matter Zane, Chief Justice, in declaring the opinion of the Court said that "taxation for city purposes should be within the bounds indicated by its buildings, or streets, or alleys, or other public improvements, and contiguous or adjacent districts, so situated as to authorize a reasonable expectation that they will be benefited by the improvements of the city or protected by its police; that no outside districts should be included when it is apparent and palpable that the benefits of the city to it will be only such as will be received by other districts not included, such as will be common to all neighboring communities.

We see no reason to doubt the correctness of the decision, and as it is decisive of the point involved in this case, the judgment of the District Court is affirmed.

Justices Blackburn and Miner concurred.

CITY COUNCIL.

The regular weekly session of the City Council was held February 3. The meeting was called to order at 7:45 o'clock by Mayor Scott. The following councilmen answered to roll call: Lynn, Anderson, Spafford, Heath, Pendleton, Wolstenholme, Noble, Pembroke, Pickard and Parsons.

PETITIONS.

Petition of William J. Silver, asking that the order compelling him to connect water closets on his premises with the sewerage mains be rescinded, on the ground that there are no sewerage pipes on the street in front of his property. Committee on sewerage.