

## THE DUDLEY TRIAL.

Proceedings Tuesday afternoon.

After recess, Moroni Skeen, Wm. L. Stewart, and John Wadman were recalled and testified consecutively: the first, that the direction of the balls was upward and that the body was searched for firearms and none found; the second, that he had the pistol with which the steer was killed, and that Dudley gave it to him yesterday morning, (the pistol was here produced); the third testified that he went to Raymond's after he had been at Spiers' and on knocking and being asked "Who's there," said "It's me." He had not seen his brother then, and did not know he was dead until two hours later.

Cross-examined. — Mrs. Spiers told me my brother had been shot but did not tell me to go for a doctor. I went to Spencer Raymond's and asked for Joe Dudley. I then went to old man Raymond's. Did not see the body then, though I must have passed it. Heard no one around the body. Nephi Stephens was at old man Raymond's and he told me my brother was dead. I saw the corpse about three minutes before they carried it away.

THOMAS H. BULLOCK

Examined the body. Saw the wounds in the mouth. Saw the burned powder inside. None of the front teeth were out.

Judge Van Zile then wanted the case postponed until Spencer Raymond could be found. Judge Emerson said he could not do it unless the District Attorney would set some time. Judge Tilford said they could take all the time they wished, to get him. Judge Emerson offered to postpone the trial until Wednesday afternoon. Judge Van Zile wanted to introduce the testimony of Spencer Raymond, as given before the coroner's inquest and before the grand jury. Defense objected. Van Zile then said he would rest his case, leaving it to the discretion of the court to admit Raymond's testimony, when found. Judge Tilford, previous to the prosecution's closing, moved that they be compelled to bring Mrs. Raymond on the stand, as she was in the house at the time of the homicide, and it was the duty of the prosecution to bring all witnesses into court cognizant of the matter. Judge Emerson overruled the motion. Defense excepted.

F. S. Richards, Esq., for the defense, then stated the case to the jury as follows:

Gentlemen of the Jury:

You have heard the testimony in this case for the prosecution, and it now becomes my duty to open to you the defense. The killing of the deceased, Henry Wadman, by the defendant, Joseph Dudley, at the time and place charged in the indictment is conceded, but we shall prove to you, conclusively, that this killing was done in self-defense. We shall show you, by competent evidence, that the life of this defendant was threatened repeatedly by the deceased, not only to other individuals who communicated those threats to him, but also to himself personally. We shall also show you that for five years preceding this homicide, a criminal intimacy had existed between the deceased and the wife of the defendant; that the deceased had become so enamored of Mrs. Dudley, and so determined "to have her," to use the language of some of the witnesses, that he had already effected a separation, had caused her to leave her home and husband and move to the home of her father; that he was so determined to possess this woman that he would even sacrifice the life of the defendant, if need be, to get her. The defendant had no knowledge, not even a suspicion, of the criminality existing between these two parties, or of any impropriety, until after his wife had left. The pretext that she had made for leaving was so frivolous, so unsatisfactory to him, and his love for her was so great that he desired a reconciliation, and the deceased fearing it would take place, and in order to prevent it, went to this defendant and gave him the first intimation that he ever had of this illicit intercourse. He said to the defendant: "Your wife has not been true to you, and I am the father of all her children." Of course the defendant did not and could not believe this; innocence, gentlemen, is ever unsuspecting; he had been true to his wife, and he could not believe that she had been

untrue to him. But after they had separated, and as he thought more about it, a dreadful fear came upon him that, perhaps, there might be some truth in it, and that fear grew upon him, until finally, in order that he might know whether this was a foul slander, or he had indeed been so basely betrayed, he went from Plain City to Draper, some seventy miles, to see his wife and learn from her whether or not this charge was true. He reached Draper the next day after the burial of one of his children, and there, gentlemen of the jury, by that little new-made grave, he learned from his wife the story of her fall. She also told him before they separated that the deceased had preceded him to Draper; that he had told her all that he had related to the defendant; and that he had further said that he would prevent her husband from going to Draper and telling the story of her shame to her parents and relatives, even if he should have to kill him and bury him in the sand. This statement of his wife, repentant as she then was, in that hour of their affliction and bereavement, the time above all others when remorse comes to the sinning soul, made a deep impression upon this defendant; his love for her was not dead, there was a spark remaining, which he felt fanned by sorrow into a burning flame, and the love of his youth was revived and intensified. He was undecided what to do. Should he take her back? Could a reconciliation take place, or must he cast her away? In this dreadful state of uncertainty he returned to Ogden. When he reached there he met the deceased who inquired what his wife had said about it, and what she had told him.

Now, gentlemen, if there had been the malice in this man that is claimed here; if there had been murder in his heart he would then have reeked his vengeance upon the deceased. But, no! he had no such design. He told him to keep away, not to cross his threshold, nor interfere with his family and that he would never harm him. They met at other times before the homicide, always on friendly terms; for the defendant was still wavering in his mind, and undecided whether or not he could take back to his bosom the erring wife he yet loved. Hence he did not desire to proclaim upon the housetops her shame and degradation. We will also prove to you, gentlemen of the jury, that about the time of the separation of Mrs. Dudley from her husband, the deceased borrowed a pistol and that he had that pistol in his possession until the time of his death; that it was returned to the owner some days after his decease. We will show you that he had a pistol on the very day of the homicide; aye, late in the day, and even at the very time of his death. And, now, gentlemen, we come to what occurred on that eventful evening. We shall show you that the deceased went to the house of Mr. Raymond at a late hour, after dark. He went in and sat down with the defendant and others. After a few minutes conversation he got up and beckoned the defendant to follow him out. He did so. The deceased led the way through the door and along the south side of the house until he got in front of the window, when stopping suddenly and turning around, facing the defendant, he put his hand back as if to draw his pistol, and abruptly said: "Take it back, by God, or I'll blow your d—d brains out!" On hearing this exclamation the defendant immediately struck the deceased with a whip which he had in his hand, and cried "Help! Murder!" They clinched, and after struggling some time the defendant succeeded in getting hold with his left hand of the right wrist of the deceased, who was all the time struggling to get his pistol. While this struggle was going on the recollection of all the injury and desolation which had resulted to the defendant in consequence of the damnable conduct of this man, came rushing into his mind, and he realized with what a desperate character he was dealing; a man that had betrayed his trust, dishonored his friend, and desecrated the sacred name of wife; who, when left in charge of his employer's property and as the protector of his family, demon-like, destroyed the purity of that sanctuary; remembering these things and the many threats that had been made against his life, and the last threat, the very last words that the deceased had uttered still ringing in his ears, "Take it back by God, or I'll

blow your d—d brains out," not knowing what he was so rudely asked to retract, the defendant, feeling that his life was in imminent peril, and believing that the only way to save himself was to slay the man who had uttered these threats, and who was then and there struggling with all his might to reach the deadly weapon with which to execute upon him the threat he had just made, I say, under these circumstances, gentlemen, with no other motive and for no other purpose than to save his own life, this defendant fired the fatal shots. Gentlemen of the jury, when we have proven these facts as we certainly shall do, then we shall confidently ask of you, in the conscientious discharge of your solemn obligations as jurors, in vindication of public justice and as a matter of right and equity to the defendant, a verdict of acquittal.

This address was followed by the introduction of testimony for the defense; the first witness being

MRS. MARY RAYMOND

Am wife of Spencer Raymond. Was at home the night of the killing. They had been sitting a few moments when Wadman got up and beckoned Uncle Joe (Dudley), to follow him. My husband had gone out for wood and came in, meeting them. Wadman went out and Dudley followed him. I was at the window with a light. I heard the words: "Take it back, by God, or I'll shoot your d—d brains out." It was Wadman's voice. Scuffling followed, then three shots, I said, "Run Spencer, they are killing Uncle Joe." My husband and Stephens ran out. Soon afterward Uncle Joe came in. He said, wildly: "By God, I did this in self-defense. Come quick, I'll give myself up." My husband then went out with him. I heard voices at the body soon afterward. Some one knocked. Stephens asked who it was, and the voice said, "It's me." Joe Dudley was then asked for. Soon afterward we went to my father-in-law. John Wadman came there after I got there. Henry had on brown overalls and a blue jumper. He threw his arms back to stretch, and I saw a hip pocket in his overalls, and the shape of a pistol in it. I saw Henry the Sunday before. He was talking to my uncle about a horse trade. I have seen Henry carry a pistol frequently. The day of the killing, my husband and uncle went down to the river for wood, past Wadman's place. Joe had a whip in his hand. He went down to Draper 10 days before the killing. He got a pistol after his return from Draper. Before that I never knew him to carry one. The light from the window shone right where the body lay.

Cross-examined. — I heard no more than I have told. I have never heard an account of the killing. Dudley has never said a word about it in my hearing, and I have never mentioned it to him. My husband is at Round Valley or Snake River. Have not heard a word from him. He left about six weeks ago. He intended to go to Snake River before this affair took place.

EDMUND ELLSWORTH.

Knew Dudley and Wadman. Saw Wadman at Dudley's one day. He was helping to move furniture, which was to go to Draperville. He had a pistol and showed it to me. I saw him the morning of the day he was killed. Asked him why he had told Dudley I had spoken disrespectfully of his wife. He said he had not. I told him Dudley said so. He said: "If Dudley said so he is a G—d d—d liar, and I'll make him t—k it back." Said he had something to do, or he would see him that day. I said Dudley was going to take his wife back. Wadman said he (Dudley) never should, by God. Asked him what he meant. He said: "Well, he'll never take her back." Helped him to catch a steer. Saw something shaped like a pistol in his hip pocket. I left him about 3.30 o'clock. The pistol was about five or six inches long.

Cross-examined. The steer got mad. Wadman threatened to shoot it. I said, "You had better get something to shoot with first." He then showed me the pistol. A man could be killed with it. This was three or four weeks before the killing. Joe's wife had then been gone about 10 days. Live at West Weber. The day of the killing I saw what resembled a pistol in Wadman's hip pocket.

Proceedings Wednesday morning:

MRS. RAYMOND

Was recalled for further cross-examination: Mr. Wadman and Dudley started off alone in a wagon. but came back in a few minutes. They went south, and were gone not over five minutes. After coming back they sat in the wagon and talked a few minutes; then Dudley came in and got ready for dinner, and Wadman went across the road. After dinner Uncle Joe (Dudley) went out and he and Wadman stood talking. I saw no more of them that day. They did not go away together; they talked together about an hour, and then Uncle Joe came in the house; as far as I know he was with Harry Wadman all the time he was out. I do not remember seeing them together again until Monday night. They were not together over at Sister Raymond's. On the previous Thursday Harry came to our house and sent for Joe. Joe came over, and the two went out by the stable and stood talking there until after dark. On that occasion they were together for over an hour, I should think. Harry did not come in. I saw them together Friday morning, when they started for Willow Creek. They came back together rather late in the afternoon. Harry stopped and talked a few minutes, not over half an hour, uncle Joe came in, did the chores and stayed at my house that evening. Do not know whether Harry came back that evening. Saw them together next on Sunday. They were together a good deal. Do not know of any business transacted on these occasions except that they were trying to arrange a horse trade. Do not know what they talked about at these meetings, which were out of doors.

Re-direct. — Joe's father and brother lived on Willow Creek. I saw uncle Joe and Harry return from Willow Creek together, but do not know where Harry went.

ED. ELLSWORTH

Was called for further cross-examination: I asked Wadman what I had told him disrespectful to Dudley's wife. He said, I never said anything disrespectful of her. He said Dudley had said he (Wadman) had said so and was a G—d d—d liar. Dudley had asked me about it and claimed as hearing from Wadman that I had said to him (Wadman) Mrs. Dudley was a loose character. I met Wadman at his house. This was the day they had trouble with the steer, and the day that Harry was shot. That was the time when he said he would make Dudley take back what he had said. This was between twelve and one o'clock. It was at the street bars, a little south of and probably four or five rods distant from the house. Several young men were standing by the stable. I think John Wadman was there. When the conversation was over I walked alone toward the river and met Jos. Skeen near the corner of the lane. Had no further conversation with Harry that day. The men at the stable were about five rods away. They might have heard us if they paid attention, but they were talking among themselves.

Re-cross-examination. — Do not remember anyone coming out of the house while we stood there. They had brought the steer off the range and it was then standing with some more stock down where Skeen was. This is the same day I helped get the cattle out of the ice. I called at Wadman's earlier that day but Harry was not there.

Re-direct. Henry and I went down to the river part of the way together. We talked together on various subjects, but not about this matter. He said, in our talk at the bars, if he did not have to take the cattle to Ogden he would go and see Dudley then. I think it was near a mile from Wadman's to Spiers'.

Recross. I saw Dudley a little before 12 o'clock and before I saw Wadman. When I was going to Plain City, about 10 o'clock, he was not at home. I was told he was on the range. Wadman's house faced the east. I went to see him about these remarks he said I had made.

Re-direct. — I was told of these remarks on the 9th. I saw Dudley on the 10th, at Spencer Raymond's. The latter told me the day before about these remarks.

OLIVER ELLSWORTH.

Defendant is my uncle. I was at Wadman's on the 10th of February. He spoke about having a pis-

tol, and asked me to bring over some bullet moulds. He said he had Wall Dummer's pistol. I saw a little of the handle of the pistol in his pocket. We went and drove the cattle across the river and I saw the pistol in his pocket then, and showed it to Charley Ellsworth, who was with me. The pistol was about six inches long and carried a ball between a buck shot and a navy. I have seen it shoot through an inch board 35 yards off. I did not see Harry Wadman any more. I saw E. Ellsworth and Harry talking at the bars before this. I was at the stable with three others and we were talking among ourselves. Did not hear anything said between Ed. and Harry.

Cross-examination. — I think the pistol was of Remington make; it had a brown wooden handle. It used caps and was loaded with loose power and ball. Do not know how long Harry had it. I shot it two or three months before this. It was a very strong shooting pistol. Harry's moulds were a little too small, and he had to put a patch on the balls. Did not see Harry shoot it. I just nudged Charley with my elbow when we were going to the river, and he looked at the pistol sticking out of Wadman's pocket. The last witness is my half brother. (A pistol was shown witness, which he said was a little shorter than the one Wadman had, and differed in other slight particulars.)

CHARLES ELLSWORTH

Was at Wadman's on the 10th of February. Saw Ed. Ellsworth and Harry Wadman talking together but heard nothing they said. The testimony of this witness was merely corroborative of the statements of the previous witness.

Cross-examination. Harry had on brown overalls; I think he had on the same ones when he was killed.

WALTER DUMMER.

About last New Year's lived on Plain City. I loaned Harry Wadman a pistol about two weeks after Christmas. I think it was after Dudley and his wife had parted. I got the pistol back about a week after Wadman was killed. Reuben Wadman had the pistol the last I knew of it. I saw it two or three days after Harry's death at Wadman's place.

HEBER ALLEN.

Live at Draperville. Mrs. Joe Dudley is my sister. Live with my father. I saw Henry Wadman about one week before his death. He came to our house. He pulled a pistol out of his hip pocket and laid it on the shelf. It was loaded. It was a cap pistol. I went to Joe Dudley's farm the day before Christmas. I was at Dudley's place when my sister left his house and went to my father's.

WM. McDONALD.

Mr. Wadman and I went to Idaho last June. Do not know whether he had a pistol at that time; he did one later.

MR. HYRUM DUDLEY.

Am a twin brother to defendant. I saw my brother the day he returned from Draper, after going to see his wife. Henry made threats against Joe four days before the former was killed. Wadman had a pistol at that time; I saw it. He drew it out of his hip pocket. I told him to keep out of Joe's way, and the latter would never interfere with him. I saw Joe next morning and told him what Harry had said. He and Wadman came to my place and went away together. In the conversation which I had with Wadman he said the children of Mrs. Dudley were his children and he would take care of them.

Cross-examination. My brother and I were riding toward father's when I told him what Wadman had said to me, that he would "shoot any son of a bitch that would take that woman back," and that he would steal the children and drown them. I told this to my wife, do not recollect that I told anybody else. They stayed at my place at Willow Creek two or three hours. Joe was in the house most of the time. They went away together riding on horseback. Joe's place was about 12 miles away.

JUDGE R. K. WILLIAMS

Made a statement. Mr. Richards myself and Mr. Dudley, the old gentleman, went to Spencer Raymond's and assisted by Mrs. Raymond, made certain measurements