DESERET EVENING NEWS.

Friday, February 27, 1891.

Copy for advertisements which are regarded by appear in the Evening News in the day when received should be handed in to the business department and have their T's on.

Rates of Advertising furnished upon application.

Copy for advertisements must be in after 8 o'clock.

SALT LAKE STAKE CONFERENCE

The semi-annual Conference of the Salt Lake Stake of Zion will convene in the Tabernacle, Salt Lake City on Sunday morning, March 1st, 1891, at 10 o'clock.

The Bishops are requested to close the Sunday Schools and Ward meetings on that day.

A general attendance is requested. The public are invited.

ANGUS M. CANNON,
JOSEPH E. TAYLOR,
CHARLES W. PENROSE,
Presidency of Stake.

GENERAL PRIESTHOOD MEETING.

The regular monthly meeting of the Priesthood of the Salt Lake Stake of Zion will be held in the Assembly Hall, Salt Lake City, on Saturday, Feb. 28th, at 10 a.m. The High Priest's Quorum have arranged to meet with the general Priesthood at that place and date. A full representation is desired.

ANGUS M. CANNON,
JOSEPH E. TAYLOR,
CHARLES W. PENROSE,
Presidency of Stake.

FRAGMENTS.

UNITED STATES MARSHAL PARSONS returned from Washington yesterday.

A BLACK cushion stand has been built in Lewis's in the Juvenile Instructor office, and looks a little out the usual order.

THE sale of seats for the Josh engagement begins at the Theatre Monday next, at 10 o'clock.

THERE are messages at the Western Union Telegraph Office for W. E. Wilson and C. H. Mellugh.

THE funeral services over the remains of Sister Diana Wright will be held in the Fifteenth Ward Assembly Rooms on Sunday, March 1st, at 12 o'clock m.

THE Second quorum of Seventies will hold their regular monthly meeting tomorrow (Saturday), February 28th, in the room of the Fifteenth Ward meeting-house, at 7:30 p.m.

COUNTY CLERK ALLEN issued marriage licenses yesterday afternoon to Albert E. Cooper and Miss Mary J. Lewis, of Sandy, and John W. Thompson and Miss Alice Hulbert, of this city.

THE grand jury committees were engaged in investigating the condition of the city and county jails yesterday. The result of their labors will probably be announced in a few days.

IN the notice of the incorporation of the Women's Co-operative Institution in last evening's issue of the NEWS, the number of shares subscribed for Mrs. Minnie H. James should have read ten instead of one, and Mrs. Clara H. James five instead of two.

THE cartridge fired is again at work. Last night another of those dangerous explosions was placed on the street car track at the intersection of Second South and East Temple Streets. It was discovered by a passing cab. The report frightened passengers and pedestrians badly, but no one was hurt.

George W. Hill's Funeral.

The funeral services over the remains of Elder George W. Hill were held in the Twenty-second Ward meeting-house under the direction of the Bishopric of the Nineteenth Ward, at 1 p.m. yesterday (Thursday). President L. W. Shurtliff, of the Water Stake, Elders B. G. Belknap, Richard Ballantyne, John Pilcher and W. W. Burton of Ogden, and Archibald Hill, of Salt Lake City, spoke of their acquaintance and associations with the departed veteran since the first settlement of this Territory. Consoling and instructive remarks were also made by President Wilford Woodruff, President George Q. Cannon and Apostle A. H. Cannon.

Exciting Runaway.

There was an exciting runaway on the State Road, south of the city, about eight o'clock this morning. A gentleman who resides in the suburbs was approaching town in a cart, at a rapid rate, when his horse suddenly took fright at a paper carried along the street by the wind. The animal became unmanageable and dashed up the Rapid Transit street car track at full speed. The vehicle collided with a car pole and was completely wrecked. The driver escaped with slight injuries. When last seen he was leading his horse towards town. The remnants of the cart were left at the scene of the collision.

Amusements.

The "Water Queen" was presented last night at the Salt Lake Theatre to a very good audience. Judging by the enthusiasm manifested it was well received.

Thurber, the horizontal bar performer, was encored several times. The ballet part was absent on a par with the average of that kind of work. The skirt dancers were hilariously applauded. Some of the specialties introduced were very good. It will be presented again tonight and tomorrow night and at the matinee on Saturday.

The sale of seats for the Emma Juch Grand Opera engagement commences Monday morning, March 2nd, at the Theatre box office. The first performance will be given March 4th, Wednesday evening. The season will consist of four night performances and a Saturday matinee. The repertoire is a most superb one.

AT "Wonderland" Grover Cleveland as he appeared when Sheriff of Buffalo, greeted the eyes of good democrats.

"NOT GUILTY."

The Verdict in the Moss Killing Case.

THE JUDGE'S CHARGE

Is a Fair and Capable Presentation of the Law and Evidence.

On the completion of Mr. Critchlow's opening argument, Mr. Dickson addressed the jury in behalf of the defense. He spoke at great length, and gave an able and detailed review of the testimony. He reviewed the life of the defendant, holding that it had been shown to the jury by unimpeachable testimony that he had always been an honorable, respectable man, of unblemished reputation; and that now, in the hour of his trouble, when he needed the benefits of a just good character they should be given him.

Mr. Dickson dwelt upon the circumstances of the shooting, claiming that Moss not only had a reasonable fear that Langton was about to shoot him, but that the fear was grounded upon actual fact. The finding of Langton's pistol a short distance from the saloon, shows he had drawn and dropped it.

Judge Powers followed in an argument only supplementing the effort of his colleague.

It was announced that the closing argument of the prosecution would be made this morning, and court adjourned.

Mr. Snyder made the closing argument for the defense, this morning. He explained that one reason why the prosecution had not impeached the character of the defendant was that the sympathy of all who knew him, or knew of him, was drawn out towards him on account of his peril rather than towards the dead man. Such was the rule, and it would be a hard-hearted wretch who would come forward voluntarily and blacken the character of a man in such danger. This difficulty had always to be contended with by prosecuting officers. He dwelt upon the occasion of the fight between Langton and Kearnes, when Moss jumped off the porch and, as he says, changed his pistol to his left hip pocket because it jostled out of his right. Mr. Snyder tried to make it appear that Moss took his pistol in his hand to protect his friend Kearnes, cannot consider reasons. He also endeavored to show, from what occurred in the saloon, that Moss entertained amiably towards Langton. He endeavored to make it appear that, at the time of the shooting Moss stood with his hand on his pistol in his front pants pocket, and that Langton did not attempt to draw his.

At 11:55 o'clock Mr. Snyder closed and the court delivered the following charge to the jury:

The People of the Territory of Utah vs. Wesley J. Moss.

Gentlemen of the Jury:

1—The indictment in this case accuses the defendant, Wesley J. Moss, of the crime of murder. It charges that on the 16th day of September A. D. 1890, at the County of Summit, in the Territory of Utah, and in this judicial District, the defendant feloniously, unlawfully and of his malice aforethought, killed and murdered one Alexander Langton, by shooting him with a pistol.

2—To this indictment the defendant has pleaded that he is not guilty, and this plea puts in issue every material averment of the indictment, and before you can convict the defendant you must find from the evidence, beyond a reasonable doubt, that he is guilty substantially as charged in the indictment.

3—The law presumes every person charged with a crime to be innocent until he shall have been proven guilty, and the defendant is entitled to the benefit of the presumption in this case.

A reasonable doubt is, as the words imply, a doubt founded in reason and not a mere captious or fanciful doubt—one that has to be sought after or conjured up for its purpose of acquitting a defendant. It must be a real substantial doubt and not one that is merely possible or imaginary. It should come to the mind spontaneously and not have to be sought after and should fairly, naturally and reasonably arise on a full consideration and careful comparison of all the facts and circumstances shown by the evidence. If upon such consideration and comparison in relation to any fact or set of facts, material to the case, the mind hesitates and is unable to come to a conclusion entirely satisfactory to itself, this would be a reasonable doubt and the defendant should have the benefit of it. If, however, such facts and circumstances proved are, in your judgment, so clear and satisfactory as to exclude from your minds all reasonable doubt they should be taken as true, and if they go to the whole case and are against the defendant, it would be your duty to convict upon such evidence as may have proved as hereinafter were fully explained in the statute.

Murder is defined to be the unlawful killing of a human being with malice aforethought. Such motives may be expressed or implied. It is express when there is manifested a deliberate intention unlawfully to take away the life of a fellow creature. It is implied when no considerable provocation appears, or when the circumstances attending the killing show an abandoned or malignant heart. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious and premeditated killing; or committed in the perpetration of, or attempt to perpetrate any arson, rape, burglary, or robbery, or perpetrated from a premeditated design, unlawfully and maliciously to effect the death of any other human being, other than him who is killed, or perpetrated by any act greatly dangerous to the lives of others, and indicating a depraved mind, regardless of human life, none of which circumstances are claimed to have been shown in this case, whilst in murder in the second degree, the killing is not deliberate and premeditated, it must, however, have been unlawful and accompanied with violence.

In the present case it is not denied by the defendant that Langton was killed at the time and place charged in the indictment and that he fired the shot by which the deceased was slain, but he claims that it was in necessary self-defense and to repel a violent and dangerous attack which the deceased was then making or was about to make upon him. The right of self-defense is a party violently assaulted by another, to repel such an attack and fully protect himself is a law of nature. It underlies all written enactments, and is fully recognized in the laws and regulations of all civilized people. The right is extensively recognized by our own statutes, and the conditions under which it may be asserted are clearly defined, and among these is that the slaying was necessary to save his life, or to prevent the infliction upon himself of a great bodily injury by the party slain.

If to justify the killing of another in self-defense, it must appear that the danger was so urgent and pressing that in order to save his own life, as it presented, he received a great bodily injury, the killing of the other was absolutely necessary, and it must appear that the person killed was the assailant, or that the slayer had really and in good faith endeavored to decline the struggle before the mortal blow was given or the fatal shot was fired.

A bare fear of the commission of an offense, to prevent which a homicide may lawfully be committed, is not sufficient to justify it, but the circumstances must be sufficient to excite the fears of a reasonable man, and the party killing must have acted under the influence of such fears alone. It is not necessary, however, to justify such killing, that the danger be actual. It is enough that it be an apparent danger; such an appearance as would induce a reasonable person in defendant's position to believe that he was in immediate danger of death or great bodily injury. Upon such appearances, a party may act with safety, nor will he be held accountable though it should afterwards appear that the indications upon which he acted were wholly unfounded, and that he was in no actual peril; in other words a man is not guilty in such a case, where the appearances proved false, when he would have been innocent if they had proved true.

The rule in such cases is this: What would a reasonable person—a person of ordinary caution, judgment and observation—in the position of the defendant, seeing what he saw, and knowing what he knew, have supposed from this situation and these surroundings? If such reasonable person so placed would have been justified in believing himself in imminent danger, then the defendant would be justified in believing himself in such peril, and acting upon such appearances. The defendant is to be accounted justified, because he actually believed that he was in imminent danger. When the danger is only apparent and not actual there is no justification, if it be not a reasonable man, under all the circumstances, be justified in such belief? If so, the defendant will be so justified. The law does not instruct you that if you find from the evidence that the deceased and the defendant engaged in a quarrel and while so engaged and without any overt act or threatening physical demonstration by the deceased, towards the defendant, the defendant shot and killed deceased, then in that case you should find and specify the defendant, but you should return a verdict of guilty of such offense as under the evidence and these instructions you may find the defendant committed. Or if you find that the deceased struck the defendant with his fist while engaged in a quarrel with him, but did not strike, or attempt to draw a weapon and did nothing to warrant the defendant as a reasonable man in believing that he was in great bodily danger, and the defendant, then and there first the fatal shot at the deceased and killed him, such killing under such circumstances was not justifiable, and you should return a verdict accordingly.

Upon the other hand, if you find from the evidence that the deceased and the defendant engaged in a quarrel, that during the quarrel the deceased struck the defendant in the face with his fist, and immediately attempted to draw a deadly weapon or made such demonstrations as would cause a reasonable person to believe he was about to draw such a weapon, and that the defendant had good reason to believe, and did believe, that the deceased was about to inflict upon him great bodily injury, then the defendant was justified in acting upon these appearances and belief, and if it reasonably appeared necessary for his own protection, and to prevent great bodily injury to himself, he fired the fatal shot, he was justified in so doing, and your verdict should be one of acquittal.

In every justifiable offense there must exist a union, or joint operation of act and intent, or criminal negligence; but when the act committed by the accused is of the character of lawful act, in law in the first instance presumes the criminal intent, and the onus or burden of proof falls upon the defendant to show the absence of criminal intent. In this case, if you find from the evidence that the defendant fired the fatal shot, (and this fact is conceded by the defendant), then the burden of proving the circumstances of mitigation, or that justify or excuse the act, devolves upon the defendant, unless its proof upon the part of the prosecution tends to show that the crime committed only amounts to manslaughter, or that the defendant was justifiable or excusable.

Evidence has been introduced tending to show that the deceased had threatened to kill the defendant, or to do him great bodily harm. If you find that such threats were made, and the fact that they were so understood by the defendant, then he might be justified in acting with more promptitude in his own defense, and upon a less dangerous exhibition of demonstration, than in acting with a person whom he knew had threatened his life, than in the case of a party who had made no such threats.

Evidence has been introduced as to the former good character of the defendant as a peaceable man, and this is proper for you to consider this evidence and give it such weight as you, as reasonable men, may think it justly entitled to. It may have prevented, for some reasonable time a man of a former quiet and peaceable character, would involve a contest, or make an unprovoked and violent attack upon a person who was a quarrelsome, violent and vicious person would dare.

You are the sole judges of the credibility of the witnesses, and the weight of the evidence and of the facts of the case, and in determining the credibility of any witness you may take into consideration the interest, if any, in the result of the trial, any prejudice or bias he may have shown while testifying, the reasonableness or unreasonableness of his statements and any other fact or circumstance that to your minds, as reasonable men, should affect the credibility of the testimony.

The defendant has been examined as a witness upon his own behalf. He is competent to testify, and you should give his testimony such weight, under the circumstances, you may think it justly entitled to, bearing in mind his relation to the case and the deep interest he must feel in the result of the trial.

Should your verdict be one of conviction, it should designate the grade of the offense found, and should the jury entertain a reasonable doubt as to which of the grades of crime named the defendant may be guilty of, if any, you will give the defendant the benefit of such doubt and acquit him of the higher offense. It is covered by the prosecution that the accused was not the only person in the vicinity, and the evidence, in finding the defendant guilty of murder in the first degree, and you are instructed that you will only find the defendant guilty of murder in the first degree, and you are instructed that you will only find the defendant guilty of murder in the second degree, or manslaughter, or acquit, as your verdict may be: "We the jury find the defendant guilty of murder in the first degree."

If you find the defendant guilty of murder in the second degree, the form of your verdict may be: "We the jury find the defendant guilty of murder in the second degree."

If you find the defendant guilty of voluntary manslaughter the form of your verdict may be: "We, the jury, find the defendant guilty of voluntary manslaughter."

If you find the defendant guilty of involuntary manslaughter the form of your verdict may be: "We, the jury, find the defendant guilty of involuntary manslaughter."

If your verdict be one of acquittal the form of your verdict may be: "We, the jury, find the defendant not guilty."

Mr. Daly, a juror, asked if the jury could take with them the charge, and they were permitted to do so.

At 11:35 the jury retired in charge of a bailiff.

The jury were out of the court room only eighteen minutes, and not all of that time was spent in deliberating. When they were seated in the box, the clerk asked if they had agreed upon a verdict. The foreman replied in the affirmative, and announced that it was, "Not guilty." This result was generally expected.

Youthful Defendants.

This morning before Judge Anderson, Wm. Byrne, apparently aged about 11 years, Daniel Martin, probably aged about 13 years, and David Arthur, aged about 9 years, (orphaned) with Henry and Patrick Congdin, were arraigned on a charge of burglary. All lived in Park City. In answer to questions by the court, Byrne and Martin said their parents were dead, and Arthur said his mother was a widow. Neither of the three had any means to employ counsel. Anderson said he was not willing that defendants so young should enter a plea of guilty without consulting with counsel, and asked if any attorney present would defend them. Mr. Dickson, evidently considering the matter of volunteering, asked Mr. Critchlow if they would be tried this term. The latter replied affirmatively.

Mr. Dickson thought he was too crowded with work to take the case. At this point O. W. Meyer, Esq., arose and said that he and Mr. W. C. Reilly would defend the boys, and they were appointed accordingly. The defendants are thus provided with capable counsel.

Arthur, while answering Judge Anderson's questions, said he was not guilty of the crime at all. An order was made admitting the boys to bail in the sum of $50 each.

First District Court.

(Civil.)

The following business was disposed of by Judge Blackburn at Provo yesterday:

In the case of the People vs. Charles Dubois, charged with assault, with intent to do bodily harm, a verdict of assault was found by the jury. The defendant was fined $200 and costs.

The case of the United States vs. E. W. Jones, charged with embezzlement, was called; a demurrer was filed by Judge Judd, representing the defense, which was overruled. The case was set for next Tuesday.

The Yorgensen unlawful cohabitation case was taken up for trial and a jury called. The offense is said to have been committed between October 15, 1875, and September 15, 1886. King defended.

Christine Yorgensen testified—James Yorgensen is my husband. We live in Fountain Green. We have lived together up to the present time.

Francis Tilby testified to having lived in Manti, Sanpete County, between 1885 and 1889; she had a family of three children. The father is J. Yorgensen. Have not lived with him since March, 1885. He then went on a mission. When he returned in 1889 I was among those who met him on his return. Did not kiss him. He never came to see me after that time. I am not married by the name of Yorgensen. Hannah, another wife, goes by the name of Nelson. Maria, a plural wife, lives in Fountain Green. Maria goes by the name of Peterson. We all changed our name when we went on his mission. I visited his legal wife's house, but never took a meal in Maria's house. For years ago our relations as man and wife entirely ceased.

Cross-examined by King—Held my home and property in my own name. At the time he went to Europe we agreed to live apart.

To Vartan—I do not repudiate him as my husband; had simply live apart from him.

Questions were propounded by the district attorney relative to marriages for security, which were objected to by King. Objections were overruled.

The Witness—We were married for time and eternity, but set aside our marriage.

Mr. Varian—Do you consider Yorgensen your husband in the eyes of God?

A.—I don't know.

Hannah Nelson testified to having married the defendant seven years ago in the temple for time. A few months after by mutual agreement in order to obey the law. She had unofficial about six years ago. Since the separation she had had no marital association with him. Supported herself.

Maria Peterson—Was married to the defendant ten years ago. Have two children. The youngest is six years old. Have lived separate from my husband since 1885. Lived with him up to that date. When he came back from a mission, I was at the reception. Have not spoken to him since. Support myself. Do not recognize Yorgensen as my husband. I am free to marry just if I wish.

O. W. Ivory—Know Yorgensen and the ladies alleged to be his wives. Know of his going on a mission in 1885 and returning in 1889. Have seen him in office since his return. Never saw him with either of the plaintiffs. Never.

Julia Yorgensen—Am a daughter of the defendant. He lives at my mother's house. The other women named in his wives come there occasionally. Do not take meals there. They are not known as his wives now.

There was no evidence of the defendant having violated the law, and the jury was instructed to return a verdict of not guilty.

Deputy Registrars.

County registrar makes recommendations to the Commission. He reports the Fourth Precinct deficient in men of capacity and aspirants to office.

The following is self-explanatory:

Hon. Alvin Saunders, Chairman Utah Commission:

I have the honor to submit and transmit herewith, a list of the names of the deputy registrars for Salt Lake County, employed under the act of March 3, 1887, and have delayed forwarding this report for several days on account of this vacancy, in the Fourth Precinct, not finding a resident in that precinct who is fully competent and able, and who will take the position.

I would ask for further time in this one particular, as I am anxious to have my administration of the duties of office of the canvass and wish to consider the matter fully. The city registrars are residents of the precincts for which they are appointed. I give, as their residences, their office or place of business, they are:

A. H. Parsons, First Precinct, City Hall.
John G. Jones, Second Precinct, 232 West First South street.
C. E. Offendahl, Fifth Precinct, 141 South Second East street.
Joseph Bullock, Eighth Precinct, Thomas Fearnley, jr., Ninth Precinct, Joseph Nelson, Ninth Precinct, Joseph Nelson, Ninth Precinct, Joseph Nelson,