

He was arrested by Rench, who took him over to Smith's drug store, to telephone for the police. McManamy aided Rench in making the arrest, but the latter told him to go away as Stokes had an aversion towards him. He did not go, however, but continued with the two, his object being to assist the deputy. On going into the drug store, the police were telephoned for. Stokes endeavored to shake McManamy off, when the latter, for some reason yet unexplained, drew his revolver and fired three shots at Stokes, placing the weapon close to his breast. Stokes fell forward, dying almost instantly. McManamy was arrested, and at the preliminary examination was held without bonds to answer to the charge of murder.

The prosecution were represented by District Attorney Peters and his assistant Ogden Hiles.

After some difficulty a jury was empaneled as follows:

J. B. Pritchett,	Henry Hirschman,
A. O. Boyle,	John Judge,
J. L. Bell,	C. H. Whitey,
L. F. Kullock,	A. L. Williams,
George O. Kidder,	Frank Shelly,
Arthur Van Meter,	M. H. Sutliff.

The indictment was then read, and the opening statement of the case made by Mr. Hiles, who gave a comprehensive summary of the facts which the prosecution expected to prove. Judge Powers reserved the statement of the case for the defense until the close of the testimony for the prosecution.

Mr. Hiles offered the depositions of James and Amos Marsden, witnesses whom the officer had been unable to find, but who were supposed to be in Wyoming. Mr. Dickson objected to them on legal grounds, and they were withdrawn.

Robert M. Fryer and Alexander Watson testified to the particulars of the trouble in the saloon, just prior to the shooting, when court adjourned.

On the morning of the 27th the case was proceeded with. William Marsh gave a detailed account of the row in the saloon, and Daniel W. Rench testified as follows:

I am a little hard of hearing; on the 1st of last September I was a deputy marshal; know Ross McManamy; knew him about two months before the shooting; saw the difficulty in the Wasatch hallway on the night of September 1st; I heard a noise when I was on the street, and went into the saloon; McManamy was the only one I knew; he was apparently trying to settle a quarrel with the Marsdens; I went into the hall; in a little while McManamy came out, followed by someone with whom he was quarreling; McManamy said "I am no coward," or something like that, and put his hand behind him; he then went back into the hall; a fight commenced, and I went in and caught one of the parties; Stokes took me by the back of my neck and pulled me back; he choked me down; he put his knee into my back, and forced me down; I caught him after Judge Norrell released me; Stokes commenced throwing me around, as he was much stronger; two or three

helped me to get him to the door, and started up the street; he asked me if I was an officer, and I told him I was; he asked me why I arrested him; I said for resisting me as an officer; McManamy was one of those who assisted me to get Stokes out of the door; did not see any one catch hold of the door; there was quite a struggle; after we got out to the street Stokes submitted quietly; I next saw McManamy at the corner, as we were going up the street; I had Stokes by the lapel of his coat; he pulled back a little; he was probably "tight" enough to make him active; he was not drunk, but was a little under the influence of liquor; McManamy went up the street on the opposite side of Stokes from me; I don't know whether he had hold of Stokes or not; Stokes asked McManamy to go away, and I told McManamy to go; he may not have heard me; I told him to go back because I saw his presence was objectionable to Stokes, who was going on quietly; when we got across the street Stokes asked me where I was going; I said to the City Hall; he said he did not want his mother disgraced; then I said "Let's go in the drug store;" we went in, and I spoke to Mr. Smith; I spoke the second time, when a shot was fired; I let go of Stokes and turned around; then saw McManamy fire two more shots into Stokes' left breast; he was closer to Stokes, who reeled and fell; then deputies Franks and Sprague came and took McManamy away; Stokes fell on his face, then turned partly over, made two or three gasps, and was dead; I afterwards examined Stokes' body; there were two wounds about 1½ inches apart, at his heart, and one on his right wrist; there was also blood above his eye, but I could not say whether or not there was a wound there; before the first shot I knew of no struggle; I felt Stokes pull back a little, but not much; I was looking at and talking to Mr. Smith; heard no words spoken by either party.

To the Court—The pistol shots were close together; I just had time to turn after the first shot, and then the others came pretty close.

Rench's statement of the shooting was not materially affected by the cross-examination to which he was subjected.

Montgomery Bird saw two of the shots fired, and heard three. Did not recognize defendant as the man who fired them.

Mr. Dickson here admitted that the defendant fired the fatal shots.

Several other witnesses testified to facts of the shooting, confirming Rench's version of it.

NOTES AND QUERIES.

"W." of Cedar City asks:

1. Is the law in relation to abandonment of rights to the use of water, Compiled Laws of Utah, 1888, page 135, Sec. 9, according to the decisions of courts, and such a law as the courts would be likely to sustain? 2. Can a criminal complaint be legally amended after it

is filed with the justice, and the defendant in the case arrested and brought to trial? 3. Is a complaint which does not specify the amount of property taken, in charging petit larceny, but which simply states that it (the property) was of a less value than fifty dollars, a legal complaint? 4. Can a precinct officer resign his office, and if so, to whom shall he tender his resignation? 5. Does section 87, page 631, Vol. I, Compiled Laws of Utah, 1888, in speaking of the removal of officers, refer to elective as well as appointive officers? 6. Has a city council the right to accept or refuse the resignation of an officer who has been elected by the people? 7. If an officer of the city offers his resignation to the council, and they refuse to accept it, is he still in duty bound to continue to act; and if he refuses, what will be the result? 8. Was the founder of the New York Herald, or its present proprietor, ever connected with the Church of Jesus Christ of Latter-day Saints?

1. Other sections of this law have been judicially declared unconstitutional, but in our opinion section 9, is valid. 2. If a demurrer to the complaint is sustained on account of some flaw in it, a new complaint must be prepared, sworn to, and filed within such time as the justice may fix, not exceeding twenty-four hours, and the defendant will in the meantime be held. If a new complaint be not filed within the time fixed by the justice, the defendant must be discharged. See Compiled Laws, 1888, Vol. II, p. 774, section 12. This is the mode of amending a criminal complaint in justices' courts. 3. The complaint should describe the property alleged to have been stolen, with sufficient fulness and detail to fully apprise the defendant of what he is accused of having stolen. The value, actual or estimated, should be stated in the complaint. 4. The law contains no specific provision governing resignations of precinct officers; but on general principles we are of opinion that the resignation should be presented to the county court, and that if accepted by that body the officer would be relieved from further duty, and his bondsmen would be exonerated. 5. Yes. 6. The law is not specific, but upon general principles we think the city council has the right to accept or reject the resignation of any city officer. 7. Ordinarily he would be obliged, in our opinion, to continue to act; his bondsmen being responsible for his doing so. 8. No; but James Gordon Bennett, senior, was disposed to accord fair play to the Mormons, and admitted to his columns articles in their defense.

A READING LESSON.

It was past 4 o'clock on the afternoon of Feb. 25 when the contempt proceedings in the Zane-Dyer controversy were called up. Messrs. Zane & Zane and R. N. Baskin had been in waiting most of the day. Finally, when the arguments on the report of Examiner Harkness were