

THE DESERT EVENING NEWS.

TRUTH AND LIBERTY.

FRIDAY, MARCH 9, 1900, SALT LAKE CITY, UTAH.

NUMBER 94.

FIFTIETH YEAR.

BENBROOK'S FATE IN JURY'S HANDS

Closing Scenes in the Sensational Murder Case Witnessed by Hundreds of Interested People at the Court Room.

Senator Brown's Great Effort in Closing for the State—A Masterly Review of Every Feature Presented by the Testimony—He Holds That Benbrook Was Wrongfully in the Dining Room With Leda Stromberg—Relations of Burton C. Morris and the Woman in the Case—Holds That Every Essential Element to Murder in the First Degree Was Present in the Killing—The Charge of Judge Hiles to the Jury—Tremendous Jam in Court Room—Many Ladies in Attendance.

After three weeks, less one day, of the hardest kind of work, the fate of John H. Benbrook, charged with murder in the first degree, is in the hands of the jury. Those sworn to try the case are as follows:

Ben L. Jacklin, of Mill Creek, farmer.

Wm. Gerrard, of Taylorsville, sheep raiser.

Wm. Colton, of Salt Lake, teamster.

Julius Cook, of Salt Lake, decorative painter.

C. H. Jenkins, of Salt Lake, harness maker.

Francis N. Shelton, of Taylorsville, farmer.

Samuel Allen Jr., of Salt Lake, laborer.

David McDonald, of Big Cottonwood, blacksmith.

W. A. Ball, of Salt Lake, special policeman.

Edward S. Milford, of Salt Lake, instructor.

John Irvine, of Salt Lake, stenographer.

William Carey, of Salt Lake, expressman.

The court room was literally packed at 10 this morning, when Senator Brown resumed his closing address, and the crowd became more and more dense. Among those present were a large number of ladies.

When Benbrook entered, he looked somewhat more pale than ever, and his movements were unsteady. His movements were calm and deliberate, showed some evidence of nervousness. He greeted his relatives most affectionately and looked the same as if it had been for many years, and the one who was most deeply stirred as Senator Brown presented his case, was the defendant's wife, who exhibited every sign of nervousness and constantly pulled and picked at the handkerchief she held in her hands.

Victor Morris and his sisters, Mrs. S. J. Johnson and Miss Morris, were in the courtroom seated throughout the trial. W. V. Morris, Mr. Hobday and N. J. Jones were present most of the time. Senator Brown's address was a masterly presentation of the case for the state. He was vigorous, incisive and convincing at many times eloquent and impressive. Mr. Brown spoke from 10:15 until 12:15, when he was tired and asked for an adjournment. He moved his address promptly at 2 o'clock, after discussing the testimony and the evidence that they gave, he reached the conclusion that when John H. Benbrook shot Burton C. Morris, he committed murder in the first degree. It is that, in the first place, Benbrook was wrongfully at the restaurant with Miss Stromberg. He was a married man and had no right to be where the evidence disclosed him to be. He is claimed, did have some money and claims upon the woman whom he found in the company of this gambler, and the assault first made was justified. Then, asserted Senator Brown, Benbrook went out with hatred and murder in his heart, and shot himself and laid in wait for his return. He held that murder in the first degree had been proved, although the jury could find him guilty of any lesser crime.

It was late in the afternoon when, amid breathless silence, the case went to the jury on Judge Hiles' charge. How long the jurors may be out and what their verdict will be is a matter of conjecture.

JUDGE POWERS' CLOSE.

Judge Powers closed his final effort for the defendant late yesterday afternoon, after having spoken, altogether, nearly six hours and a half. His address yesterday was almost entirely devoid of any attempt at oratory, and the case yesterday was devoted almost wholly to stating and restating and stating again the reasons why, in the view of the defendant, it would be impossible to find Benbrook guilty of anything. It all rested upon the law of self-defense.

Just at close, Judge Powers broke away from his notes and made this last appeal:

"Your verdict will mean death or liberty to this man. It is home to that wife and baby, or it is the gallows. There is no middle ground. There is no chance for any compromise. It is the thing or the other; either an acquittal or death. So here this afternoon, among the last words in behalf of a human being, I submit this cause to you. I ask that in the future of this case he needs any protection, that you will give him that protection. I submit his case to you, and as you may be tried and judged hereafter, as you shall be finally summoned to the great white throne, so may you try and meet this man. As you may hope for mercy to the life that is to come, so may you be merciful here. As you may hope for justice and fair dealing, so I hope that you may deal justly here."

Life of a human being. Was there ever greater trust? Into your hands I place the life of John H. Benbrook. Tell me your consciences whether this testimony of a character so satisfactory that you would be willing to stand by and see the man placed upon his neck and be sprung over into eternity. I submit the cause to you in confidence,

tered the room, there was a divergence between his story and Leda's, and it was to a verdict of guilty that the defendant denied that it was written.

How was it that Benbrook and Leda met there? What business had he there, with that woman, away from his wife and family? He had no business there, he had no right to be there. He was there, too, as an interloper. He was taking from Burton C. Morris something that belonged to him.

ROGERS CHIVALRY.

Mr. Rogers, in his brave, chivalrous spirit, had imagined a case of his being in a restaurant with a lady, and he would kill everybody before he could be driven out. But Mr. Rogers didn't imagine in his case, and he was not a gambler, he had no right to be there. He was there, too, as an interloper. He was taking from Burton C. Morris something that belonged to him.

WHEN THE QUARREL BEGAN.

What a scene was presented to Morris when he entered? There was the woman he loved, the woman he had tried to talk to about marriage, sitting there cheek by jowl, with that gambler, with the drinks, and food before them. If he had pulled out his revolver and shot him, and Powers had been called upon to defend him, he would have shown the jury that Morris was suffering from emotional insanity. He would have argued that the right arm of the law was Jove's thunderbolt and he would have been acquitted. He would have argued that the right arm of the law was Jove's thunderbolt and he would have been acquitted.

The senator only had time to make some remarks by way of preface when an adjournment was taken until 9:30 this morning. It was not his purpose, he said, to abuse the defendant at all, and the many warnings given by Judge Powers on that head were unnecessary. The attorneys for the defense were the ones who had dealt in abuse. It was the duty of the State to present this case to the jury upon the facts established. It was the duty of the State to arrest and punish this man, and prove the commission of this crime, and stop this constant procession of murder.

Senator Brown referred to the witnesses Hume, Keene, Doolan and Albert C. Morris, and assumed that they told the truth about as they knew it, although mistaken in regard to some points.

This Morning's Session.

When the court convened this morning, there was the usual crowd in attendance, the ladies seeming to predominate.

Senator Brown, taking up his review of the witnesses who had passed in review before the jury, said that Keene was a man who had deep interest in the case and perhaps had feared the reputation for his connection with it. Daly, or Bigelow, was a man who had no personal interest in the case. As for Miss Stromberg, Judge Powers, her defender, had himself denounced her more bitterly than Mr. Putnam, who criticized her. Powers charged her, by insinuation and suggestion with every manner of wrong doing. Judge Zane also denounced her, but Mr. Rogers alone stood stoutly for her in the case. Leda Stromberg was no Helen of Troy, no Cleopatra, but she had enough of beauty and charm to ensnare this young soldier, Burton C. Morris.

THEORY OF SELF DEFENSE.

The defense claimed that the verdict must be murder in the first degree or an acquittal. The theory of self defense rested wholly on the testimony of the defendant. This man was a man who had a reputation for peace and quietness, a dozen men had sworn to. Could it be possible that Salt Lake City had become so low that the character of its professional law breakers could be proven to be good. For twenty years he had been a professional law breaker, and for many years he had kept a gambling house in this city. Orderly? Why, he was disorderly in every moment of his life. It was because of this, the man of the police to let such houses run that they were here today, trying this case. And they get on the stand the president of the Wasatch Gambling company, to prove this man's good character, and was complete master of himself. That was the result of his teaching as a gambler. And for a few paltry dollars or a few dirty cents he would deceive. That was his business as a gambler. This time his life was the stake. Was he a falsifier? Why, when he arose breathless from his struggle with Morris, it was with a lie upon his lips regarding that gun. And it was upon his testimony only that this defendant's defense against an unarmed man.

BENBROOK A REMARKABLE MAN.

Benbrook was in many respects a very remarkable man. His capacity to control himself was wonderful. He controlled himself on the witness stand better than any man Senator Brown had ever seen. He was able to control himself absolutely, and was complete master of himself. That was the result of his teaching as a gambler. And for a few paltry dollars or a few dirty cents he would deceive. That was his business as a gambler. This time his life was the stake. Was he a falsifier? Why, when he arose breathless from his struggle with Morris, it was with a lie upon his lips regarding that gun. And it was upon his testimony only that this defendant's defense against an unarmed man.

MORRIS' RELATIONS WITH MISS STROMBERG.

Burton C. Morris had been the constant attendant of Miss Stromberg for four months, being with her every night. On this particular day they were together during the afternoon. They were to the Vienna, where she drank a glass of the seductive fluid that Judge Zane admired so much. They visited various places, and went on a shopping tour. When they parted, there was an engagement for the two to meet at the Merchants' Cafe at 6 o'clock that night. She took that room for herself and Morris, not for Benbrook. She went there expecting every moment that he would come. Keene says she told him she wanted to meet Benbrook there that night. And yet he doubted if Morris was expected there or if he expected to be there. At all events, Leda took the room. It was her room, not Benbrook's. From the point where the defendant en-

NEW TREATY WILL BE AMENDED.

Hay-Pauncefote Agreement to be Changed.

RATIFICATION WILL COME.

United States Will be Permitted to Use Its Forces in Defense of the Nicaragua Canal.

[Afternoon Dispatches.]

Washington, March 9.—The Senate committee on foreign relations today agreed to report the Hay-Pauncefote treaty amending the Clayton-Bulwer treaty with an amendment granting authority for the defense of the canal by this country when constructed. The committee was practically unanimous in favor of the amendment. Some objection was made by Senator Morgan of Alabama, but he will not oppose the measure in the Senate, accepting the change in order to hasten the action of the Senate. Quite an elaborate report has been prepared by Mr. Morgan, which will be submitted to the Senate in executive session when the treaty is reported. It is the opinion of members of the Senate that the change will but slightly delay the ratification of the treaty as amended.

The amendment is brief. It simply provides that the restrictions in the treaty shall not operate to prevent the United States from using its military forces for the defense of the interests of the United States and the maintenance of order.

Senator Morgan was the only member of the committee who cast his vote against the amendment. Senators Bacon and Daniel, the only other Democrats present, voting with the Republicans. They also voted with the Republicans to have the treaty reported as amended.

Senator Morgan talked at length during the sitting of the committee in opposition to the amendment, practically consuming the entire time of the session.

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HOW THE SHOTS WERE FIRED.

At Senator Brown's request, Assistant County Attorney Van Cott put on the coat and vest worn by Morris on the occasion of the shooting and showing the bullet holes. The intention was to show that the fatal shot could not have been made while the men were clinched, facing each other. Senator Brown, after considering everything, was of the opinion that the amendment to the Hay-Pauncefote treaty, which would allow the United States to use its military forces for the defense of the canal, was necessary.

THE FOLLOWING IS THE TEXT OF THE AMENDMENT TO THE HAY-PAUNCEFOTE TREATY:

Insert at the end of section 5 of article 2, the following:

"It is agreed, however, that none of the immediately foregoing conditions and stipulations in sections number 1, 2, 3, 4, 5 of this act shall apply to the extent which the United States may find it necessary to take for securing by its own forces the defense of the United States and the maintenance of order."

RELEASED SPANISH PRISONERS.

Washington, March 9.—The war department has released the following: "Manila, March 9.—Adjutant General, Washington: "One officer, sixty enlisted men, and two civil officials, captured Spanish prisoners, received today from Tayabas, OTIS."

ORDER COUNTERMANDED.

Washington, March 9.—The navy department has countermanded the order for the Marbled to proceed to the isthmus to look after American interests on the west coast. The orders to the Detroit to proceed to the east coast will stand. The Philadelphia has been ordered to proceed to Santa Barbara so that she will be in position to go at once to any point on the isthmus where revolutionary troubles may threaten American interests.

EX-MINISTER PHELPS WORSE.

New Haven, Conn., March 9.—There was slight change for the worse in the condition of Mr. E. J. Phelps, former minister to England, this afternoon. The official bulletin issued by the attending physician states that the patient is growing weaker. His death will probably not occur for two or three days, but no surprise will be occasioned if he dies tonight.

COMMITTEE ON TRUSTS.

Washington, March 9.—The House committee on judiciary today adopted a resolution offered by Representative Overstreet of Indiana for the appointment of a special sub-committee on trusts. The special committee is to consist of seven members under the chairmanship of Representative Ray, head of the committee, and is to consider the numerous bills and resolutions relative to trusts which have been offered. Mr. Ray has not yet named the members of the special committee.

NARROWLY ESCAPED LYING.

Marion, Ind., March 9.—Fred Dunker, the tramp who attacked and chloroformed Mrs. Henry Wise, wife of a prominent farmer six miles south of Marion, and who with great difficulty was placed in the Marion jail last night to protect him from the indignant neighbors, was secretly removed to the jail at Washburn, Ind., today by the sheriff.

SIXTEEN MINERS KILLED.

Nimes, France, March 9.—Sixteen miners have been killed by an explosion in a coal pit at Besseges. The galleries of the mine collapsed, burying the bodies of the victims.

row. He said, as the measure was well understood he hoped and believed it would lead to no extended debate.

When routine business had been finished Mr. Mason called up his motion, entered yesterday, to discharge the foreign relations committee from further consideration of his resolution expressing sympathy for the Boers in their heroic struggle with Great Britain. The motion was laid before the Senate.

Mr. Davis, chairman of the committee on foreign relations, moved that the doors be closed, and the Senate at 1:30 p. m. went into executive session.

BANK CASHIER ACQUITTED.

Paola, Kan., March 9.—L. C. Gilmore, ex-cashier of the Paola National bank, charged with embezzling stock of the Independence Gas company, was today found not guilty by a jury in the district court.

NOT RUBONICPLAGUE.

Chinaman in San Francisco Died of Pneumonia—Doctors Yet Waiting.

Washington, March 9.—The surgeon general of the marine hospital service has received the following from Surgeon Gassaway at San Francisco, dated March 8:

"Reliable information that the Chinaman who died and was suspected of having had the plague, had been in the city continuously for 15 years, and for the last six months under treatment for other diseases. Probable cause of death, congestion of lungs or pneumonia. The result of the bacteriological examination not yet received. Another case reported as suspicious in the city and county hospital is not plague."

QUARANTINE RAISED.

The board of health has decided that the Chinaman who died here several days ago and who was supposed to have symptoms of bubonic plague, did not die of that disease. The quarantine, which has been maintained in Chinatown for several days, will be lifted this afternoon.

The doctors who have been investigating the case may make a report today. The rats and guinea pigs inoculated with germs taken from the deceased Chinaman are still alive.

INNOCENT MAN RESPIED.

Montana Executive Saves Him from Being Hanged.

Sheriff Respects Telephoned Reprieve—Case Will Now Await Supreme Court's Action.

Helena, Mont., March 9.—A respite for Bishop Shafer, the innocent man under sentence to be hanged at Butte, has been telephoned to the sheriff there by Lieut. Gov. Spriggs. It was feared the mails would miscarry.

The lieutenant governor will sign the temporary respite when he reaches Butte in order that the supreme court may have an opportunity to pass upon Schafer's appeal. The sheriff will respect the telephoned reprieve.

IT HAD SEEMED THAT SCHAFFER MUST HANG, SINCE THE GOVERNOR AND LIEUTENANT GOVERNOR HAD AGREED TO THE PROPOSED MODIFICATION OF THE TREATY.

While no member was authorized to speak for Great Britain, the opinion was expressed that the government of that country would agree to the proposed modification of the treaty.

FLOOD SITUATION ALARMING.

Fremont, Ohio, Has an Ice Gorge—Part of City Inundated.

Columbus, O., March 9.—A special to the Dispatch from Fremont, Ohio, says: The flood situation here is more alarming now than at any time during the week. The up-river ice came down with a rush and the water is ten inches higher now than at nine o'clock last night. The ice gorges north of town still refuse to move out.

The heavy ice flow has considerably weakened the State street bridge connecting East and West Fremont. Workmen are strengthening the structure.

The flats and lower part of the city remain inundated and the sewers are unable to carry off the surplus water.

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KRUGER OFFERS TERMS OF PEACE.

Britain's Reply an Emphatic Rejection—Retention of Independence by Transvaal Will Not be Considered a Moment.

Kruger Asks for a Cessation of Hostilities—His Terms the Same as Before the War—British Say Kruger is Not Ready to Accede to the Sweeping Demands Britain Will Make—Salisbury's Action—Ameer of Afghanistan Denounces Russia—Will Fight for Great Britain—Issue of New War Loan—Kruger and Steyn Fail to Rally Their Forces—Peace Looked For—Submission of Free Staters Expected—Kruger Anticipates a Change—Natal Troops Going to Roberts.

[Afternoon Dispatches.]

London, March 9, 5:10 p. m.—Late this afternoon it is learned that the peace rumors were founded on the fact that President Kruger has appealed to Lord Salisbury for a cessation of hostilities offering at length by cable the terms, which he is willing to accept. These, however, are not taken seriously as they include practically nothing more than what the Transvaal government offered prior to the issuing of the British ultimatum.

OFFICIAL CIRCLES HERE REGARD THE PROPOSITION AS MERELY A RUSE OF THE BOERS TO GAIN TIME AND DO NOT CONSIDER THAT PRESIDENT KRUGER IS YET READY TO CONSIDER THEIR SWEEPING DEMANDS WHICH GREAT BRITAIN WILL MAKE AS REIMBURSEMENT FOR THE LOSS OF LIFE AND GREAT EXPENDITURE.

NO MORE REPUBLIC.

It was understood that President Kruger's advances had met with an emphatic rejection at the hands of Lord Salisbury, who is believed to have said that no such attempt to retain the independence of the Transvaal can be considered for a moment by the British government.

AMEER WANTS TO FIGHT RUSSIA.

4:22 p. m.—The Ameer of Afghanistan has authorized his agent in London to publish the following statement of the policy of Afghanistan towards Great Britain and Russia. After saying that he had devoted much anxious thought to the possibility of Russia taking advantage of the Transvaal war to advance through Afghanistan and India his highest aims.

"I have come to the conclusion that Russia fears Afghanistan, as a war with the Afghans would mean a great rising of all Islam, which would spread through Russian Asia. Russia has not troops enough to combat such a rising. Her hold on the Musulman countries she has conquered is insecure. They hate her and with ten times her power Russia could not fight Afghanistan and India successfully."

"The Afghans prefer death to slavery, and their women and children are being taken by the Russians."

After saying he is willing to send numerous troops to help Great Britain in the Transvaal, but adding that the Afghans are unaccustomed to the sea, the Ameer adds:

"But England's troubles are always my troubles; her strength is my weakness. England must remember that I am always ready to fight for her on land here or in India."

NEW WAR LOAN.

6:06 p. m.—The amount of the new war loan will be £20,000,000. The interest will be at 3½ per cent and the bonds will be redeemable at par May 5, 1910. The issue price is 95 pounds, 10 shillings.

The bankers of London met the chancellor of the exchequer, Sir Michael Hicks-Beach, at the Bank of England today to discuss the terms of the war loans, which will be advertised tomorrow.

KRUGER AND STEYN UNHEEDED.

London, March 9.—The war office has received the following from Gen. Roberts:

"Poplar Grove, Friday morning.—Presidents Kruger and Steyn were both present at the fight of March 8th, and did all in their power to rally their troops. The rout, however, was complete, the men declaring that they could not stand against the British artillery."

MINER'S BODY BLOWN TO PIECES.

Charlie Despain Meets a Terrible Death in the Highland Boy Mine at Bingham—Received the Effects of Four Blasts Which He Was Preparing.

[SPECIAL TO THE "NEWS."]

Bingham, March 9.—A terrible accident occurred here about 2:30 o'clock this morning, in which Charlie Despain, a miner in the Highland Boy mine, was instantly killed.

Mr. Despain had prepared five holes for blasting and was in the act of firing them. He lit four of the fuses but the fifth one failed to ignite. In his anxiety to fire all the holes he remained a little too long, working with the

BRITISH STEAMER SUNK.

Only Three of the Crew Saved—Had Been in Collision.

Calais, France, March 9.—The British steamer Windsor, which has arrived here from Leith, Scotland, reports that the British steamer Cuvier, Capt. Quinlan, from Antwerp, for Brazil, was sunk in collision with an unknown steamer. The Windsor picked up the second mate and two seamen belonging to the Cuvier, the rest of whose crew, it is feared, were drowned.

The Cuvier was a freight steamer and probably carried a crew of about 50 men. She was last reported arrived

and such a formidable force of cavalry.

From various quarters come signs of the possibility of peace in South Africa being shortly within the bounds of practical politics.

All the dispatches from Lord Roberts' headquarters, including those of the commander-in-chief, there is a growing indication of a guiding spirit among the Boers and individual demoralization pertaining disintegration unless speedily stemmed.

The flight of the burghers from Poplar Grove, according to all accounts, was wholly inglorious.

SUBMISSION OF FREE STATERS EXPECTED.

A Times dispatch from Poplar Grove under yesterday's date, goes so far as to assert that the rout of the Boers was complete, that the submission of the Free State is being demanded by the burghers from their unwilling president and it is expected its submission will be made within a week. The correspondent adds:

"Probably the Boers' wisest course was flight, but it was most unidentifiable and certain to cause consternation at Bloemfontein. There is a growing outcry against any further identification of the Free State with the Transvaal interests."

Dispatches from the Boer camp at Glencoe, via Lourenço Marques, depict President Kruger as donning a bandolier, seizing a rifle and inviting volunteers to accompany him, as he wishes to have a shot at the enemy himself.

President Kruger is also quoted as having declared in his address to the troops that he did not know whether arbitration or intervention would end the struggle, but that it "would end quickly" within the next month, he strongly believed.

BRITISH ADVANCE.

Meanwhile, the British are not staying their advance.

Lord Roberts has moved ten miles nearer Bloemfontein, evidently with the view of seizing and utilizing the railroad, possibly to reach the Free State capital in three or four days, whence he may begin repairing the railroad southward, meeting the British advance from Cape Colony, which may be expected to be hastened as soon as Gen. White takes control. The British occupied Jamestown unopposed Thursday, March 8, and the Boers are reported to be retreating beyond Allwal North, so that Cape Colony is practically clear of armed Boers.

FROM BULLER TO ROBERTS.

Reinforcements from Natal are going to Lord Roberts. Gen. Warren's division and some artillery have already been ordered to join the commander-in-chief so that the latter is preparing for all eventualities, including possible desperate opposition to his crossing the Vaal river, and the necessity of the siege of Pretoria, where thousands of natives are reported to be employed in the construction of defensive works, concerning which such secrecy is maintained, that no one is allowed to walk or drive on the outskirts of the town.

REDMOND WOULD DO IT.

John Redmond's speech in the House of Commons yesterday does not meet with unqualified approval in Ireland, whence the Irish Transvaal committee telegraphed him the following:

"We challenge you to come to Dublin and repeat in public the statement you made in the House of Commons in the name of the Irish people."

The notice of Walter's morning inquest, Paret's horse and Dunraven's sharpshooters attached to the imperial yeomanry, prior to their departure for South Africa.

troublesome fuse. Suddenly the first charge exploded and it is presumed that by this one Despain was either killed or so injured that he could not get away and he received the force of all four holes, one after the other. When found, the body of the unfortunate man was in a fearfully mangled condition. Deceased was a son of the late Bishop Despain of Granite, where his mother and brother now live. They were communicated with and the remains will be taken there for interment.

at Liverpool on February 15 from New Orleans via Norfolk. She was a steel steamer built in 1883, of 2,250 tons gross and 1,452 tons net, and hailed from Liverpool. She was owned by W. Pollard & Co., and Jones.

Young Man's Terrible Crime.

Oakland, Cal., March 9.—Alexander Carter, a young man, 32 years of age, while in a temporary fit of insanity today, shot and fatally wounded his brother, Charles, aged 22 years, at the house of their parents in North Berkeley. Then placing the muzzle of the pistol in his mouth, he blew out his brains. Both men will die.