WAS HE JUSTIFIED?

The Whetstone Murder Case on Trial at Ogden.

WITNESSES EXAMINED YESTERDAY.

The Testimony Thus Far Tends in Favor of the Accused.

The trial of Ex-Deputy Marshal Whetstone for the murder of Ex-Deputy Marshal McLellan attracted a large assemblage of spectators in the Fourth District court at Ogden yesterday, Judge Anderson presiding at the investigation.

Attorney Evans asked that the jurors be allowed to examine the saloon in which the shooting was done and the ground surrounding it. This request was conceded to. On their return,

The first witness called was John Kerk, one of the proprietors of the saloon in which the tragedy occurred. He testified: I have lived in Ogden about twelve years and am in the saloon business with Henry Hoke; our place of business is 2412 Washington Avenue; am acquainted with the defendant, Henry Whetstone, and have known him ever since I came to the city; knew McLellan about the same time; am acquainted with Ogden Hiles and W. F. St. John; Whetstone and McLellan were in the saloon on the night of the shooting; I went on duty at 7 o'clock and they were there then; distinguished McLellan's voice in one of the wine rooms; had occasion to go to the wine room about 8 o'clock; they rang the bell and I responded to it about 8 o'clock; McLellan, Whetstone and Hiles were in the room; they called for drinks and they were served; I was in the room five or six times and each time drinks were served; about 9 o'clock St. John came in and asked for McLellan; I told him that he was in the wine room and he went to them; think that afterwards Henry E. Steele and Mr. Hornecks went into the wine room; I heard no disturbance of an unusual character until about 10:30 or 11 o'clock; about this time I was called again to serve the drinks; when I took them in the drinks, the first I heard was that Whetstone said to Hiles, "you have no use for me," or words to that effect; could not understand the reply made by Hiles; the party was sitting around the table in the wine room; didn't pay very much attention to the conversation until McLellan jumped up and said Mr. Hiles was a friend of his and he wouldn't see him abused; Whetstone told him to sit down as he didn't want any trouble; I went out to the bar and returned and if I recollect, McLellan had his coat off; Whetstone told him that he was a better man than he and he didn't want any trouble; McLellan then took his coat out of his pocket and threw it into the table and told Whetstone he didn't want to take advantage of him, but would fight him in any manner he desired; Whetstone said to him, you are heated and I am not; he seemed to be in a pacifying mood all the time; stating he didn't want any trouble; Whetstone went out and they had some discussion about taking a drink; McLellan wanted Whetstone to go and sit down again and take a drink, but Whetstone invited them to step up to the bar and drink; I went out of the saloon, and when I returned Whetstone was gone; I didn't see where he went to; when I went back I was called back to the wine room to serve drinks of liquor; I didn't notice close; I should judge that they were there at least under the influence of liquor; it was not so noticeable on St. John as on the rest; when I saw our Whetstone was standing practice stove in the back part of the saloon; I believe George Hilles was with him; I heard there might be more trouble and told him to say better go home; he said he would not do it; that he couldn't stand what had been done; I asked him to go home two or three times; I went out to wait on someone and went back and met Steele coming out into the main body of the saloon and found Whetstone alone near the stove and again I told him he had better go home; Steele came up to him about this time and asked him to go home; I don't recollect whether he made a reply or not; I left McLellan in the wine room and while I was talking to Whetstone McLellan took his appearance and I saw him standing near the wine room door; I did not see all the way down the hall from where I was standing, but saw McLellan start and come down the hall towards us; he had his hands hanging down by his side; I looked at him until Whetstone spoke to him; McLellan was probably half way down the hall; Whetstone said to him: "Stop, Mac"; I was looking at McLellan when he spoke; I turned around to look at Whetstone and saw him pulling his gun; said as soon as I saw it I jumped back and immediately after the shots were fired; I didn't see Whetstone take his pistol from any pocket; the last I saw of McLellan he was lying down in the hall; his head was lying against the south partition and his left foot was on the step; I went and assisted in carrying McLellan into the northwest wine room; St. John, Steele and Policeman Smith assisted; Whetstone did not remain but disappeared out the back door; I didn't notice any weapon on McLellan when we picked him up; McLellan was laid out and I left several with him and went out into the saloon.

At the afternoon session the taking of the testimony of John Kerk was resumed. He was asked a question or two by the prosecution.

Cross-examined—A man standing in the saloon could see through the hallway into the back room where we heard the river; I see Whetstone and Steele there which caused me to go back there; I went in duty at 7 p.m.; on duty later I saw St. John, Whetstone, McLellan and Hiles in one of the wine rooms; about 10:30 I went in there; the first I heard was Whetstone saying he had no use for Hiles, but he would do more for Hiles than Hiles would do for him; another answer Whetstone to be angry; Hiles began talking low to Whetstone; nothing to Whetstone's language was offensive in tone; McLellan jumped to his feet and said that Hiles was a friend of his and he would not have him abused; McLellan had his coat on at the time; he hammered the table with his fist a number of times and during his talk said he would be d—d if he would have Hiles abused, shaking his finger at Whetstone; up to that Whetstone had said nothing to McLellan; Whetstone said McLellan in six down as McLellan was a better man than he, washed no trouble, he had been nice and treated McLellan was heated and he wasn't; McLellan continued his motive manner and said he would fight him any way he wanted to, using profane language; Whetstone told him to sit down; McLellan drew the gun when Whetstone said he was not heated and threw it on the table talking quite loud; I tried to quiet McLellan by talking to him; he appeared angry and was boisterous; he was generally boisterous even when good-natured; I went out to wait on customers for from three to five minutes; when I returned McLellan had his coat off and was continuing his argument; I told him to keep still but he would calm for a moment but go right on again; after throwing down his gun Mr. Hiles took it up, handed it back to McLellan and told him to put it up; McLellan took the gun and put it down in his belt or the waistband of his trousers; a few moments after Whetstone arose and went out and after talking a moment or two with McLellan; McLellan and Hiles asked Whetstone to sit down and drink; Whetstone refused to drink unless they went to the bar; it was probably half an hour afterwards that I saw Whetstone again; he was standing by the stove and as I came out from behind the bar and looked through the hall I saw him; I went back there; Steele was standing with him; Whetstone had an overcoat and had worn it all the evening; at this time we had a sober party named Wagner who was there about this time; Whetstone was not offensive to me; I do not remember Whetstone having a pair of overshoes to the wine room and sending for them that day; I asked Whetstone to go home because of the trouble formerly had with McLellan; I talked with him about a minute and then went to the saloon and seen after returned; Whetstone said nothing to reply to my talk with him; when I returned I saw McLellan standing by the wine room door; I saw him turn his head to where I was standing in the saloon, and immediately started up the hall as if desirous of following Mr. Lellan's hands were by his sides as he started; he walked not a couple of steps when I heard Whetstone holler "stop, Mac," or "Mac, stop!" then Whetstone pulled his gun and fired; when I saw McLellan last he was lying down in the hall; his head was lying against the south partition and his left foot was on the step; I went and assisted in carrying McLellan into the northwest wine room; St. John, Steele and Policeman Smith assisted; Whetstone did not remain but disappeared out the back door; I didn't notice any weapon on McLellan when we picked him up; McLellan was laid out and I left several with him and went out into the saloon.

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and moved about; when Whetstone showed he had no pistol McLellan throw his gun away and pulled off his coat; I made no attempt to interfere but gave him back his pistol before he put on his coat; McLellan was angry and profane; can't say whether or not Hiles appeared frightened at what Whetstone said; when Whetstone left McLellan talked after him and said "I don't think he'll come back."

Court adjourned until 10 o'clock this morning.

A NEW OPERA HOUSE.

Proposition by Miller and Miller to Erect a Thespian Art Structure in This City.

Miller and Miller, the well known real estate brokers, have written the following letter to the Chamber of Commerce:

John W. Donaldson, Esq., President Chamber of Commerce, Salt Lake City:

Dear Sir—During the past year there has been much written and said about the necessity of a new opera house in Salt Lake City, a suitable thoroughly modern and complete, that would vary with the Knutsford and the new one and would be a source of pride to the city.

In view of this demand we make the following proposition to the citizens of Salt Lake through your body:

If the city will give us the purpose, we will erect in Salt Lake the finest theatre between Chicago and San Francisco. We have for this purpose bought an option on the 100 feet adjoining the east front block of the Auerbach Brothers on the south opposite the Dooly block on West Temple street, at a price of $12,000, good till November 15, 1892.

We will expend for the approval of your body, plans and specifications for the proposed opera house, and upon delivery to us of warranty deed for said site we will enter into bonds to the sum of $50,000 satisfactory to your body, that said structure will be commenced within thirty days and be pushed with all diligence to completion in accordance with such plans and specifications. The building will be according to the latest and most modern ideas of theatrical architecture. It shall be as nearly fireproof as it is possible to make it, provided with such ample fire exits, with a special fireproof stairway separate from the main building, leading from the galleries and with special frames set aside for fire and panic patrols. The seats shall not be less than 14in per one, and will be luxuriously finished, with foyers, ladies' parlors and all that can be desired looking to elegance and comfort.

We feel that we are justified in asking the donation of the ground under the following circumstances: It is a well-known fact that large in one of the cities of this country will a theatre pay as good returns upon an investment as an office building of the same cost, including cost of ground. In Salt Lake such a theatre as we propose would net pay 4 per cent on the amount invested, the old opera house, moreover, as was its best, paid only 2 or 2 per cent, and for forbearance. It is quite customary to give the site for such purposes. In Omaha a site was donated by the citizens to erect the new Boyd opera house. In almost every Western city of importance sites have been donated for such buildings.

A modern, handsome opera house in Salt Lake would not only be a source of gratification to amusement lovers, but would be a salient of pride to every citizen and of value to every property holder and business man in the city.

We earnestly request immediate action upon our proposition by your honorable body, as our option limit is short, and if the proposal is accepted wish to get our building completed for the opening of the theatrical season a year hence. It was not able to secure the donation of the site we will be obliged to let the enterprise go entirely.

KENNEL CLUB MEETING.

Protest Against the all Dog License—The City Council to Be Asked For a Reduction.

The Inter-Mountain Kennel club met last evening at the Knutsford hotel.

The club decided to add to the prizes already offered for the dog department at the territorial fair, a price of $25 for the best kennel of dogs of any breed, and $100 for the best dog, male or female, out of the St. Bernard female, Carlton Dally. The latter prize is offered by Mr. Kinney in the name of the club. A change was made in the challenge class so as to correspond with the American Kennel club rules.

The following dogs were added to the exhibit:

Great Dane, Gordon setter, English bull terrier, bloodhound, dachshund, Irish water spaniel, cocker spaniel, cocker spaniel, bull dog, skye terrier, Chesapeake bay, dandy dinmont terrier, Newfoundland and Scotch terrier. Messrs. Nakum, Starkwick and Holcombe were appointed a committee on judges. It is expected the dog department at the fair this year will be very good. There are a large number of entries of fine dogs.

The club made a protest against the $1 dog tax ordinance in force in this city. The members were unanimously of the opinion that the people are not in favor of having a tax so high that the dog catcher can make $500 or $600 a month out of it. The opinion was that $3.50 tax is high enough and that dogs kept chained and racing dogs should be exempt. It was also stated that the present method of catching and killing stray dogs was a very cruel one and should be changed.

A committee consisting of Messrs. Holcomb, Grimes, Kinney and Starkwick was appointed to draw up and present resolutions embodying the above to the city council at its next meeting.

The club adjourned until Monday night.

The Strike is Over.

The labor strike which has retarded progress on the Grant avenue school building, at Ogden, for the past two weeks has been declared off and this morning a large force of men were to resume work. The men refused to proceed until the unpaid checks issued by the sub-contractor, John Hedderman, were paid, and to inform the contractors, Messrs. Carr & Callahan, The latter refused to stand good for the checks as the work had been sublet to Hedderman; however, they made a proposition to the workmen that after the building was completed and if there was anything left on Hedderman's contract with them they would see to it that Hedderman's checks which were purchased by J. H. Myers were paid. Last evening the men accepted the proposition and Carr & Callahan will go ahead and complete the building. Hedderman was retained to superintend the stone work.

COURT JOTTINGS.

Matters Which Occurred Late Yesterday Afternoon in the Various Courts.

In the case of Sydney D. Evans vs. Mrs. Lottie Moses, a suit for $104.50, the defendant has filed a demurrer in Justice Hall's court.

In the case of Helen M. Kriggman vs. A. J. Nielson, in which the jury rendered a verdict in Justice Hall's court Tuesday in favor of the defendant, the plaintiff has filed a bond and notice of appeal to the Third District Court. The suit was brought to recover $147.50 on a promissory note.

Justice Kreiger rendered judgment against the following parties in favor of the Torrens Drug company: Johannes Halvorsen, $21; W. G. Adams, $4.35; Joe Gilmer, $2.95.

In the case of J. A. Fitch vs. The Salt Lake Abstract, Title Guarantee and Trust Company, in which the plaintiff sues for $2000, the defendant has answered to the amended complaint in Justice Kreiger's court.

The defendants have filed a demurrer to the complaint in the case of W. J. Carey vs. The Rio Grande Western Railway company in Justice Kreiger's court. The plaintiff in this case demands judgment for $750, the alleged value of a horse which he claims was killed by a train on the defendant's road.

A verdict for the defendant has been filed with Justice Kreiger in the case of A. Dale vs. M. L. Stewart.

The Chicago Hotel Cabinet Company has begun suit against L. S. Whitehead in Justice Orey's court, and demands judgment for $70 on a promissory note.

The case of Sarah C. Derrick vs. T. H. Edwards, in which the plaintiff sued to recover $48 alleged to be due from the defendant for board and lodging, was heard in Commissioner Greenwald's court, and judgment rendered in favor of the plaintiff for the full amount with costs.

Deputy Marshal Frank Cleveland left the city this morning with John G. Thompson, the alleged Ohio embezzler. The prisoner will go to Toledo, Ohio, where he will await a final hearing.

Anna Malquist has begun divorce proceedings against her husband John T. Malquist, in the Third District court. The parties were married in Copenhagen in 1870 and came to this country soon after. The plaintiff alleges that the defendant deserted her about thirteen years ago and has failed to live with or provide for her since that time. It is also alleged that defendant treated the plaintiff in a cruel manner prior to their separation. Upon these grounds the decree is prayed for.

The grand jury at Ogden adjourned yesterday until next Tuesday morning, when they will meet again to transact some business not yet reported. In the meantime the Reform school and the jails will be visited.

ED. L. HUNTLEY'S

$10, $14 and $18 Suits,

FOR MEN AND YOUTHS. Were ever such values offered before? Such stocks of goods, in one manageable lot? Think not; very reasonable. NEW SUITS. We received yesterday and yesterday evening our $10, $14 and $18 Suits, $7, $10 and $14.

Fairness of prices extended for vest, not in longer alterations (we perform it yet free as ever), or other goods, but values only, prevailing at all times, is made use of satisfactory delivery.

ED. L. HUNTLEY'S CO.
243 and 245 Almost Dime, Cor. 200

W. H. WILKINSON,

WHOLESALE

Crockery, China,

GLASSWARE, LAMPS, LAMP GOODS AND HOTEL CHINA

220 W. SECOND SOUTH STREET,

Or One Block West of Post Office.

P. O. Box 1155. Telephone 1085.

You Needn't Be Afraid.

of asking for our Fall Suits and Overcoats and don't be afraid of asking any number of questions about them. They will bear investigation.

If there is a single point concerning them that is not cleared up to your entire satisfaction, you can walk out as easily as you walked in, and there will be no harm done on either side. If you wade money you are called extravagant; isn't it extravagant to buy cheap, trashy goods at regular prices when you can buy from a house where full value is guaranteed? We won't be perfectly satisfied unless you are, and these goods will conspicuously satisfy you if anything ever did.

ONE PRICE.

J. P. GARDNER,

141 Main Street.

WONDERLAND

WEEK COMMENCING

THURSDAY, - - SEPTEMBER 15, 1892.

A FEAST OF CURIOS!

J. W. Coffey, the SKELETON Dude,

Thinnest Man Alive.

He is as free to laugh and weighs less than Fifty Pounds. Mr. Coffey appeared at Wonderland last season, and proved to be the greatest curiosity ever placed on exhibition in this city. Wise men said he was a fake, impossible and a swindle, but upon a close and the ordinary man, not built in clothes, as could man in Utah, but the same you MUST. Have pictures upon you!

A FIGURE OF NATIONAL INTEREST,

JAMES J. CORBETT, - THE WORLD'S CHAMPION!

As represented in full ring costume of the noblest in New Orleans.

PROF. CATCLLE'S NEW ILLUSIONS, THE MARVELOUS

THREE-HEADED SONGSTRESS.

2 HEADS! 3 HEADS! 2 FACES AND!

You will find it well to be in your seats at the time.

GRAND THEATORIUM!

Another Big New Stage Show

NEAR THE LAKE, THE PICK OF THE VARIETIES.

LEONA VANITA, The Whistling Queen.

FERGUSON SISTERS, Clever Comedy—Variety Sketches.

MADELINE & KENNEDY, The Cyclonic Clog Dancers Fresh from the Pavilion.

DOLLY WILSON, The Dancing Girl.

MONTGOMERY & WARD, Two Clever from Abroad—Particular Fancy.

Ladies' Souvenir Day, - - - - Wednesday, Sept. 20th.
School Children's Matinee, - - - - Saturday, Sept. 17th.

10c. ADMISSION. 10c.

NO IMPROPER CHARACTERS ADMITTED.

HIGHLAND Evaporated Cream.

Pure, Unsweetened MILK, Concentrated, Canned and Sterilized.

KEEPS IN ALL CLIMATES.

FOR TABLE USE, ECONOMIC COOKING AND PERFECT INFANT FEEDING.

For Sale by Grocers and Druggists.

WHITE LABEL LARD!

PURE LEAF LARD.

USE NO OTHER.

See that your Lard Cans and Cases bear our

"HELMET" TRADE MARK.

R. K. THOMAS

THE SILK HOUSE

20, 28, 30, 32 EAST FIRST SOUTH STREET.

FALL OPENING

LADIES' CAPES and JACKETS.

ONLY $13.75

For this Handsome COAT, made in Tan. Full Roll and Loops of natural oppossum; half silk lined. AN IMMENSE BARGAIN.

READ THIS.

A Lot of Ladies' Cloth Jackets, worth from $5.50 to 6.75. Your choice for $3.95

Our $6.50 Jersey Jackets for $2.95.

A large assortment of Young Ladies' Jackets, 14, 16 and 18 years, at $5.00 and $6.75.

GREAT BARGAINS.

Children's Jackets, from 4 to 12 years, at half regular price.

BABIES' CASHMERE CLOAKS.

CHILDREN'S COATS.

Two hundred Children's Coats, Fancy Cloths and Flannels, trimmed with Velvet and Clings. Immense Assortment. No one worth less than $3.00. Your choice for $1.50.

One lot worth $4.25 for..... $2.00
One " " $4.50 for..... 2.50
One " " $6.25 for..... 3.00

YOU CAN SEE THESE VALUES IN EARLY.

A $3.50 Cashmere Cloak for..... $1.75
A $5.00 " " 2.00
A $4.00 " " 2.75
A $4.25 " " 3.00
A $5.00 " " 3.50
A $5.75 " " 4.00
A $7.00 " " 5.00

This is Baby's Chance.

CHILDREN'S BONNETS

Cashmere and Silk Embroidered,

Twenty-five dozen of them at one-third regular price.

All New Goods bought for a run.

BABIES' BONNETS

Fifty dozen Children's Hats, Bonnets Caps, Tam O'Shanters and Hoods in Plush, Cashmere, Fancy Silks and Flannels at 25c, 50c, 75c, and $1, Worth just three times these prices. Come and judge for yourselves.

BLACK SILKS.

50 PIECES BLACK SILKS, ABSOLUTELY PERFECT WEAVES, AT ABSOLUTELY LOW PRICES THIS WEEK.

Surahs, all Colors..... 25c

DRESS GOODS

Our Dress Goods Department is more attractive than ever before, filled with staple and Foreign Novelties. We are headquarters for Dress Goods.

SHOES!!

We carry a line of SHOES surpassed by none.

LADIES', MISSES', MEN'S, and BOYS'

Those Children's BONNETS, HATS, HOODS, Etc., Etc., Mentioned above will be placed on our front tables this week.

Remember they are Fall Goods.

The Best BARGAINS you ever saw.

COME AND SEE US.

R. K. THOMAS