

and fired upon the guard and escaped; afterward, when about to be arrested, he fired at Hancock, and he returned the fire. Then the chase began; Price, Nelson and Patton arrested the deceased; that Mr. Hancock did not shoot, nor did he give any command to shoot; the defense proposed to show that the evidence of Frank Wilson was not to be believed; that defendant was now on trial for the killing of Henry Jones only; another indictment is found against him for the killing of Mrs. Jones; but they would show he was not in the cabin at all, and that Mrs. Jones was living long hours after the death of Henry Jones; at the time of her death Hancock was at Salem, several miles away.

Albion Crockett, S. R. Thurman, Henry Gardner and A. Saxey were among the witnesses called for the defense. The statements of Frank Wilson were contradicted in many particulars by these witness.

Thomas Wilson testified—I have lived in Payson 30 years; was engaged in teaming in those days; I got into Payson the night of the shooting; we took our horses over to the bench; when we came into town George Hancock came and asked us to go with them, saying they had arrested some prisoners; John Saxey was under arrest; we were looking for Henry Jones; we received information of the connection of Henry Jones with the horse stealing; we were asked to go to the cabin, but we protested; we went at Mr. Hancock's house an hour or so. Then we started out. On our way we heard some gun shots due west from where we were; we heard some one running toward us. Hancock challenged him to stop. It was Henry Jones. He stopped and called out to George Hancock; I got the impression that Jones was going to shoot; I stepped aside and Jones at once fired; the bullet whistled by us; Hancock fired back; Jones reeled, but gathered himself and ran over the hill; we followed, but gave up the chase before we got to Piontown; when we got near we saw some men coming toward us; we then heard two shots fired, and when we went up we saw Jones lying there dead; Hancock was not with us; I don't know how far away we were when the shots were fired; after we arrived I don't think Hancock fired a shot; several were there; I didn't see Frank Wilson there when we first came up; there were some women there.

To Mr. Evans—I was before the grand jury last November, not in the spring; I knew George Hancock before that day; we went out as a guard around Henry Jones' wickiup or dugout; both Hancock and myself had guns; the two shots were fired at nearly the same time; my impression was that they wanted to arrest Jones because he was the leader of the crowd of thieves, not that he had stolen anything; I didn't understand that Hancock was after Jones to kill him; I couldn't say that there were more than two shots fired; Jones was on the ground struggling when we got up to him;

I don't remember of anything being said as to what should be done with the body.

To the Court—I am not sure it was Jones who came up and fired at us; the time of the shooting of Henry Jones was about 1 to 2 o'clock in the morning.

Lycurgus Wilson testified—My house was located inside the fort; my brother Frank didn't live with me; when I heard the noise I was at the wood-pile; Frank was not with me at the time; at the time Jones was in the house the men didn't come up; I didn't see any water for Jones; I didn't decline to go to Payson; I don't recollect of my brother being there at all; I didn't hear Hancock give any command or word as to the shooting; I was the nearest one to him; I don't recollect but two shots; I didn't see Hancock shoot deceased after he was down.

To Mr. Evans—Don't recollect of Mr. Hancock giving any command; I didn't testify before the grand jury that I had started back toward home when the shots were fired; the two shots were fired in quick succession.

To Mr. Brown.—If Mr. Hancock had given any such command I would have heard it.

After hearing considerable evidence as to the defendant's good character, Mr. Hancock was called to the witness stand and testified—I am the defendant in this case; I have heard the testimony in this case; I remember the night of the killing of Henry Jones; remember being out on guard with Thomas Wilson that night; we were on the look-out for horse thieves; I remember some one coming up while on guard; I hailed him; I cried, "Who comes there? Halt!" When I cried "halt" he fired; I had my hand on my pistol and returned the fire; the two shots were like spat, spat; the man turned and ran; I started after him; I saw two men jump from the sage brush and run after him; they were between us; I did not come up to them till they reached Piontown; when I came up I recognized the men as George Patten and Price Nelson; George Patten, Lycurgus Wilson, Samuel Keel and Price Nelson had arrested the Joneses; there might have been other parties around but none others connected with the arrest; Jones did not want to go back; Samuel Keel and Lycurgus Wilson were leading him that is they were side by side; as we were going back the question was again asked what he was arrested for; I was telling that he was the leader of a gang of horse thieves; we had got on about one-hundred and fifty or two-hundred yards; I was at the left of Mr. Wilson; suddenly there was a commotion and two shots were fired; I did not fire either of those shots; I did not say "Slip it to him boys," or give any other word of command; there were only two shots fired; I did not fire a shot when he was on the ground; we were met by two men coming from Payson; Thomas Wilson might have been one of them; I should judge there were about fifteen or twenty men in the crowd; I don't remember

seeing Frank Wilson there; this shooting occurred before 2 o'clock; the first shot was fired about 12 o'clock; some one spoke up and said it won't do to leave him here; there was a man living near by named Tom Keel; spoke up and said, "We will watch the body;" his wife spoke up and said, "Yes, we will watch him; I wouldn't go to bed after such a racket as this, anyhow." I had not chased this man Jones around town before he was halted by me while on guard; I know Daniel Rossou; I never told him that I had killed Mrs. Jones; I never was inside of the dugout; I saw this John Jones arrested the next morning at about 9 o'clock; I moved to Payson on the 27th day of March, 1856; I was born in Columbia, Ohio, on the 14th of March, 1826; I came to Utah in 1849; I lived at Wood's Cross, north of Salt Lake; I have lived in Payson since 1858.

To Mr. Evans—I never knew Henry Jones until he was identified after his death; I had heard of a family by the name of Jones living there; there were about three hundred people in Payson, but they were constantly moving; my brother was Bishop at that time; the commanding officer of the guard gave me orders not to let any one pass in or out; I don't remember who was officer of the guard that night; they were being constantly changed; I think William Best was commanding that night; I received no orders in relation to the guard from my brother; I held the rank of captain in the militia; this militia was known as the Nauvoo Legion; Dan Rossou and Price Nelson were on guard at the corral that night; I was guarding east and north of the dugout; I had never seen this dugout; in the night I saw a flash of light in the direction I supposed the dugout was, and I heard some shots fired; I believe I heard as many as four shots in a short space of time. The old pistol was produced and Mr. Hancock illustrated how it had been held and how the challenge had been given. The shot gun with which Jones fired at me was picked up by some hard boys the next morning; I went after that man to bring him back to Payson; he had crossed by guard and I considered it my duty to bring him back; the four men whom I spoke of had arrested him when I came up; I said, "Boys, we must take him back;" I believe these men said they wanted to take him back; Jones did not want to go back; he did not explain why he did not want to go back; I did not hear him say he did not want to go back because we were going to murder him; I don't know whether he was wounded; I supposed when I shot that I had hit him in the right arm.

Mr. Evans—Did you try to kill him?

Objected to by Mr. Brown; objection overruled.

Ans.—I can't say that I did try to kill him; he fired at me and I shot at him; I could use a pistol pretty tolerably quick in those days; I was smarter than I am now; when Jones saw the other men coming he