

days; I do not know how Spencer was dressed; I do not know whether he had a hat on or not; did not notice whether he had a bandage on his head or not; there was no peculiarity about his dress that I recognized; I live at Dillon, Mont., now, and this is the first time I have ever told these facts to any living soul; I have never gone into the details, I mean.

The jurors were cautioned against reading any local newspapers during the time they had the case under consideration. They were then placed in charge of a bailiff for the night, with instructions to be on hand promptly at 9:30 next morning.

After the jurors had retired the court said: "Brother Peters, I understand there is a little matter you wish to bring before the attention of this court. I am now ready."

Mr. Peters—It is this, your honor: In view of the proof already adduced, and in consideration of the fact that we have additional to come, we ask that the bond of the defendant be increased or that he be remanded to the custody of the marshal.

Mr. Brown objected. There had been no evidence of any importance introduced that had not been brought out before the commissioner.

Mr. Peters—But I say we have much additional.

Mr. Brown—Well, wait until you get it then. To shut this man up at this stage of the proceedings would be an outrage.

The judge did not think it was necessary at this time to go any further in the matter.

Mr. Hiles thought the bond of \$5,000 was an extremely low one. In a murder case where the defendant is admitted to bail the bond should never be less than \$10,000 or \$15,000. The admission of this man to bail by the commissioner was an abuse of discretion on his part. He should have been remanded. We do not wish to oppress this man, but we do wish to follow the law, because we are responsible to the law.

Mr. Rawlins entered an objection to this proceeding.

The Court—I think I see my way out of the case. I do not wish to prejudice the defendant. I want him to have equal and exact justice. I think his bond is sufficient. I shall watch the case very closely, and keep the prayer by the State in mind, but shall make no further order in this matter now.

The court then adjourned till 9:30 a.m. next day, May 8.

W. L. PICKARD

was the first witness next morning. He testified—I have known Howard O. Spencer since 1855; remember the killing of Sergeant Pike; was two or three rods north of the alley on the east side of the street, heard the shot, and saw Spencer run across the street and into the alley west; saw no weapon; there was considerable commotion.

To Mr. Brown—Did not hear anybody say "I'll drop him;" did not recognize Hickman, Luce or Stringam; saw no weapon; a good many revolvers were drawn.

LEONARD PHILLIPS

testified—I am 69 years old; have been in Utah since 1853; live in Park City now; knew Sergeant Pike; first met him in April, 1859, at Camp Floyd, which is about 46 miles from Salt Lake; I was within eight or ten feet of Pike when he was shot; I was going up the street, and went and sat down by a soldier at the Salt Lake House; a crowd came down the street; in front of them were Pike and a soldier; a man came up and said "Is that you Pike?" the latter turned around and the man shot him in the right side; I saw Hickman, Luce, Stringam, and Steve Taylor; Pike called out, "My God!" and I sprang out and caught him; the corporal who was with him went to draw his revolver, and I called to him for help; we carried him into the Salt Lake House, where the doctor cut the ball out from below the right nipple; Pike had on a bowie knife; the ball struck the bone handle and knocked part of the bone into Pike's body; I saw the piece taken out; watched the doctor probe the wound to a depth of three or four inches; the ball ranged upwards; it went in just over the right hip, and was taken out of the right side; I had never seen Spencer that I know of; the muzzle of the revolver was about two or three feet from Pike when the shot was fired; the man who fired stopped an instant, looking at Pike, with his pistol in his hand, when Bill Hickman came up and said "Get!" the men then went over the ditch and ran across the street and into an alley; about three hours after I left the city, and next day I went to Camp Floyd, and that night the party who were with Pike came back; when the ball was taken out of Pike he said he could not live; Lieut. Gordon was there at the time; the doctor and several others were there also; Gordon asked Pike if he knew the man; Pike had the bullet in his fingers when he said he could not live, and said to a soldier, "You give this ball to Ed. when you get back, and tell him that's the ball that killed me."

Mr. Hiles—Did he speak the name of the man who had shot him?

Objected to by the defense; objection overruled.

Mr. Rawlins—Was Pike's statement reduced to writing?

Witness—Yes; Lieut. Gordon wrote it as he told it, but I could not say whether or not Pike signed it, but I think he did.

Mr. Rawlins—Who were there?

Witness—There were several parties.

Court—You may stop there, Brother Rawlins; it makes no difference who was there.

Mr. Rawlins thought he had a right to the information he was asking for, and was told to proceed.

Mr. Rawlins—When did Mrs. Townsend come in?

Witness—A lady came in after the statement was made; a citizen named H. S. Beatty was there, and Lieut. Gordon ordered him out.

Mr. Brown—We object to —

Court—That is enough.

Mr. Brown—Let me state my objection.

Court—There is no need.

Mr. Brown—We have a right to it on the record.

Court—Proceed, Mr. Prosecutor.

The witness. In reply to Mr. Hiles, said—Pike said Howard Spencer was the man who had shot him.

To Mr. Brown—Pike said a little more; I don't think I have told it all; Col. Crossman was not present when the statement was made; there were a corporal and several soldiers; I never was a soldier; I was in the quartermaster's employ at the time; I came to town that day to see what was going on; since then I have been doing a good many things; I work in the Ontario mine.

Court—You've gone far enough with that cross-examination.

Mr. Brown—We take an exception.

Witness, to Mr. Brown—I saw the man who shot Pike go part away across the street; there were 20 to 30 people there; the man who did the shooting came along the street, behind Pike, until he spoke to the sergeant; I saw him just before he spoke; there were men close behind him; there were six or eight; three of them drew weapons; Stephen Taylor was with the crowd; he had a pistol on his side, but did not draw it, the crowd were about 40 feet from the place of the shooting; did not notice Taylor there; know Lebi Daniels; did not see him there; Stringam was ten or twelve feet from the man who fired the shot, at the time it occurred; he had a pistol in his hand; this was after the shot; saw Jace Luce and Bill Hickman in the crowd before the shooting; Hickman was closest to the man who shot; there was only one soldier with Pike; I did not hear Hickman or Stringam call out "I'll drop him." The witness then described the location of the Salt Lake House, stating that Pike was shot when near the north end of the hotel.

To Mr. Hiles—I do not know where Lieut. Gordon or any of the others who were with Pike are at present; Pike was crossing the alley north of the hotel when he was shot.

Mr. Brown moved to strike out what the witness had said regarding Pike's statement, as he had not told all of it.

Court—Witness, come back. State all that Mr. Pike said when he was making his statement.

Witness—The Lieutenant said, "Pike, are you positive it was Spencer?" Pike said, "I know it;" he then spoke of the disposal of the bullet.

Mr. Brown—I renew my motion.

Court—The motion is overruled. Call the next witness, Mr. Peters.

Mr. Peters said he had been apprised this morning of the presence of a very material witness, a lady, and asked the court to take a recess for 15 minutes till the officer returned with her.

The recess was taken for twenty minutes.

Upon resuming the session, the