

shot in August, 1858, and arrested the defendant on the charge of murder, at Hooper, in this county. I found him plotting. There was nothing said about the occurrence until after the arrest; the defendant at that time began to talk about the case, and mentioned the name of his sister; I cautioned him not to say anything to me, because it would be used against him. He said he did not care; he intended to tell the court all about it; he had done the deed, and would do it again.

Cross-examination—I did not ask him any questions; the defendant commenced by saying that Hendry had seduced his sister, and that he would do the same thing again under the same circumstances. The defendant said that Hendry not only seduced his sister, but boasted about it through the community, and kept it up even after he was warned to leave the country. The defendant did not say that his father made him go with him.

James Lowe; I live in Hooper; lived there in 1871; knew James Hendry; saw him two days before he was shot; saw him about thirty minutes after he was shot; heard three or four shots that evening; went to Hendry's house that evening; found James on the ground, not far from the house; he was wounded in the shoulder; it was a large wound, large enough, almost, to put my hand into it; I helped move him into the house; there were several other small wounds in the back; I have never seen James or Ezra Hale about Hooper since the shooting.

Thomas Hull lived at Hooper, and has lived there since before 1871; his testimony was substantially the same as the previous witness.

Mrs. Annie Lowe lived at Hooper, and was present at the house of Mrs. Hendry soon after James Hendry was shot; saw James and Ezra Hale before the shooting; never saw them since.

The prosecution here stated that owing to the absence of Mrs. Hendry, the mother of the murdered man, they would be unable to proceed further. The old lady is in feeble health, and was expected in on the 1.30 Northern train yesterday afternoon, but a telegram from the sheriff of Cache County informed them that she could not possibly reach the city until 9 o'clock in the evening.

It was suggested that the defense might go on with their testimony, but the suggestion was declined, Messrs. Rogers & Bowman insisting that they preferred to wait until the prosecution had closed before offering any evidence.

A recess was taken until 2 o'clock p. m., but when court was called the case was adjourned over until this morning at 11 o'clock, and it is now apparent that the case will not be finished before Tuesday, although there is a bare possibility that it may be given to the jury late this evening.

The jury was again placed in charge of an officer, and will be kept in attendance until the case is concluded.

FIRST DISTRICT COURT.

The case of the People vs. Ezra J. Hale, which was continued over from Thursday, was resumed yesterday morning. It was the intention to open court promptly at 9 o'clock, but it was almost 10 before the case was taken up.

Mr. Evans made a brief statement of the case, relating about the same facts that had been brought out on the preliminary examination and which were stated in THE TRIBUNE yesterday morning.

The first witness called was Dr. T. S. Wadsworth; lives in Morgan County; lived in Hooper, Weber County, in September, 1871; was studying medicine at the time; was acquainted with James Hendry; knew James Hale and Ezra J. Hale, his son; was called to attend upon James Hendry some time in the fall of 1871; can not remember the date exactly; I examined his condition at the time; I had his clothing taken off and found that there was a bad wound in the left shoulder, apparently a gun shot wound; he was also wounded in the back; there were a number of shot wounds in the back, inclined to the left side; a number of large shot were just under the skin, and some were in the clothing. I arrived at the house about thirty minutes after the shooting. The wound in the shoulder was fatal; it was a very large wound, about as large as my wrist, and the shot had evidently carried all of the muscular portion of the shoulder down with it. He was conscious, but was able to speak in a whisper only. He would answer questions, mostly by a nod of the head. He stated in my presence who shot him. I knew the Hales, but did not see them about the place; have not seen any of them until to-day.

Cross-examination—Saw Jas. Hale at my drug store on the day of the shooting; cannot say positively that I saw Ezra Hale on that day; don't know that I sold whisky to James Hale that day; might have done so as Hale frequently got whisky from me. I was not a graduate of any medical college at that time; I kept a drug store and was reading medicine at the time, and people frequently called me to attend them in advance of a regular physician. I was not present when Hendry died. He was conscious at times while I was present; only answered questions by the nod of the head and by a whisper.

Betsy Lowe said she lived in Hooper, had lived there 19 years; have lived there continuously up to the present time; did not know James or Ezra Hale; knew James Hendry and his mother. They were visiting at my house on or about September 23th, 1871. James Hendry and my husband went to Ogden that day and Mrs. Hendry visited me while the men were in Ogden. When they came back James Hendry and his mother returned home. I heard shots in the direction of Mrs. Hendry's house soon after they left my house; it was about half a mile to Mrs. Hendry's; I went to Mrs. Hendry; James Hendry was lying on the ground out northwest from the house, with his head to the west; I took a quilt out and covered him up; he did not say anything; he was on his back. Soon after men came and carried him into the house. I washed his clothing afterwards; there were seventy-three holes in his coat, all but one in the back, and there was one in the left shoulder. Hendry could not speak when first brought in. About three or four o'clock in the morning he became conscious and spoke; he told me that he was going to die. He said he was going to die and he wanted his brother Allen to kill old man Hale and his son Ezra because they had shot him. I asked him if he knew me, and he said he did. I asked him who I was, and he said Betsy Lowe. He said old man Hale and Ezra shot him.

Cross-examination—Hendry was suffering a great deal; he was throwing up blood; I was not excited; I had been excited early in the evening; I was not crying; do not think I cried much; I did not ask him if old man Hale and his son Ezra had not shot him; I noticed that he was looking at me, and I thought he wanted to say something, and I spoke to him and asked him if he wished to say anything, and he said he was going to die and he wanted his brother Allen to shoot old man Hale and his son; I asked him if he saw them, and he said that he did; I asked him where they were, and he said old man Hale came from one corner of the house and Ezra came from the other; I asked him who Ezra was, and he said he was old man Hale's son.

Wm. Holl lived in Hooper; know Ezra Hale; never saw his father, Wm. Hale; know James Hendry. I think the defendant was about 18 years of age in 1871. I remember the circumstances of the shooting of James Hendry; I saw the defendant on the evening before the shooting; I heard several shots fired on the evening of September 23th; I heard three shots. I was about three-quarters of a mile away from Mrs. Hendry's. Soon after James Lowe rode up to my house and I went down to Mrs. Hendry's house and found James Hendry lying on the ground. I knelt down beside him and asked him if he was hurt; but he did not answer; soon after Gilbert Belknap came up and we carried the body into the house. Mr. Wadsworth took off his clothes; there were a large number of shot wounds in the small of the back, made by double B. shot. There was also a wound in the shoulder large enough to put an egg in; the rim of his hat was burned with powder, and a part of it shot away. I did not hear him speak; he would answer questions by a nod of the head.

Cross-examination—I am forty-five years of age; I had known James Hendry in England; we came over from England together; he had been married once; he lived at Wellsville for awhile, and I lived in Idaho, at Franklin. He had left his wife and was living at Hooper at the time of the shooting. I knew a lady by the name of Jane Hale; she was a sister of the defendant. Hale was at my father's house the evening before the shooting. It was forty-two minutes after three o'clock when Dr. Williams came from Ogden. I remember the time because I was timing the boys who had gone after him. I did not stay in the room all the time, because I did not like to listen to his groans. I have not talked with anyone to amount to anything about the shooting lately.

Re-direct—I knew Jane Hale; I do not know whether she was married; I had heard that she had been married; she had one child; I had heard that she was some man's second wife down about Salt Lake.

Sheriff Belknap said he was in the vicinity of Hooper in September, 1871, when James Hendry was shot; I saw him before he was carried into the house; I heard three or four shots about thirty minutes before I went to Hendry's; I noticed a wound on the shoulder; could not say which shoulder; I also noticed shot-holes in the back of his coat, and heard several shot fall on the floor when the coat was taken off. I went from Hendry's to Hale's place and watched the house all night for the defendants; they did not come to the house that night that we saw.

Cross-examination—I did not see any arms on the person of Hendry. Further examination on this point was objected to by the prosecution; objection sustained.

H. E. Steel; I was a Deputy Mar-