The New North-West.

VOL. 11, No. 27. DEER LODGE, MONTANA, JAN. 2, 1880. WHOLE No. 548.

The New North-West

DEER LODGE, MONTANA.

RATES OF ADVERTISING.

	Card.	1 inch.	2 inches.	3 inches.	4 inches.	6 inches.	12 inches.	25 inches.
Time	$2	$3	$5	$7	$8	$10	$20	$30
"	3	5	6	10	12	15	25	40
"	4	7	8	12	14	20	33	48
1 Month	5	8	10	14	16	25	38	55
2 "	7	10	12	18	24	35	60	75
3 "	9	12	15	22	30	50	70	100
6 "	11	15	25	35	50	75	100	160
1 Year	16	25	40	55	70	90	140	250

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ATTORNEYS

HIRAM KNOWLES,
ATTORNEY-AT-LAW,
Office in building formerly occupied by W. W. Dixon. Court House Square,
Deer Lodge, - Montana.

W. F. SANDERS. W. F. CULLEN,
SANDERS & CULLEN,
ATTORNEYS-AT-LAW,
HELENA, - - - MONTANA.

O. B. O'BANNON,
Land Agent and Attorney,
Deer Lodge, Montana.
Office—S. W. Corner of First and P Streets. Opposite Episcopal Church.

G. A. KELLOGG,
COUNTY SURVEYOR
Civil Engineer and U. S. Deputy Mineral Surveyor,
DEER LODGE, M. T.
Office with O. B. O'Bannon. Orders for Surveys of Mineral and Agricultural Lands will receive prompt attention. Orders can be left with Mr. O'Bannon in my absence. 519.

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A. H. MITCHELL, M. D., — A. K. IVES, M. D.
MITCHELL & IVES,
Physicians and Surgeons.
—Office on Main Street,—
DEER LODGE, - - - MONTANA.
Prompt attention by night or day to patients in town or country. 526.

PORTER HANKS, M. D.,
Physician and Surgeon,
—OFFICE OPPOSITE KENNON & ZENOR'S.—
Deer Lodge, - - Montana.
Will attend promptly to all calls from town or country. 483.*

BANKERS

R. W. DONNELL, W. A. CLARK,
S. E. LARABIE,
Donnell, Clark & Larabie,
BANKERS,
DEER LODGE, M. T.
Do a General Banking Business and Draw Exchange on
All the Principal Cities of the World.
NEW YORK CORRESPONDENTS.
Donnell, Lawson & Co.
No. 92 Broadway.

First National Bank!
HELENA, - MONTANA.
Authorized Capital $500,000
Paid up Capital $100,000
Surplus and Profits $100,000
S. T. HAUSER, - - President.
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T. H. KLEINSCHMIDT, - Ass't Cash.
DESIGNATED DEPOSITORY OF THE UNITED STATES.
We transact a general Banking business, and buy, at highest rates, Gold Dust, Coin, Gold and Silver Bullion, and Local Securities; Sell Exchange and Telegraphic Transfers, available in all parts of the United States, the Canadas, Great Britain, Ireland and the Continent. COLLECTIONS made and proceeds remitted promptly.
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DAVIS & BENNETT,
ASSAYERS,
BUTTE - - - MONTANA.
PRICES—Gold & Silver $2 50
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HOTELS.

COSMOPOLITAN HOTEL,
Nos. 37 & 39 Main Street,
Helena, Montana.
SCHWAB & ZIMMERMAN,
Proprietors.

Silver Lake House,
PHILIPSBURG, MONTANA.
MURPHY & JENKINS, - PROPRIETORS.
Finest and Most Commodious Hotel
ON THE WEST SIDE,
Rooms Light and well ventilated.
Accommodations First-Class.
389-3m MURPHY & JENKINS, Proprietors.

JOHN MARCHION'S
Meat Market.
[MARCHION & TODHUNTER'S OLD STAND.]
Main Street, Deer Lodge.
Having succeeded to the proprietorship of the above popular Meat Market, I am prepared to supply patrons with
All Choice Meats
—AND—
Game In Season
And solicit a share of public patronage.
My Prices Are Reasonable.
Meat in any quantity delivered free in the city Give me a call for nice meats.

Blanks for Sale.

We have in stock the following Justice Blanks, adapted for any township or county in Montana, and in conformity to existing laws. The following are the prices:

Subpœnas, per hundred	$6
Summons	" 6
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Also,	
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If an assortment is ordered lesser quantities than one hundred will be furnished at same rates. Cash must accompany order. Postage will be prepaid. Address,
NEW NORTH-WEST,
DEER LODGE.

TRIAL OF JENKINS HOPKINS

For the Shooting of Ah Foo, a Chinaman, in Butte, June 12, 1879.

REMARKABLE CASE OF CIRCUMSTANTIAL EVIDENCE

And a Fearful Warning to Armed Inebriates who Go on a Spree.

Convicted and Sentenced to Twenty-Five Years in the Penitentiary.

[A brief synopsis of this case, tried here this term of court, appeared in the NEW NORTH-WEST of the 26th ultimo. It is now proposed to give the details as gathered from the testimony.]

First day's proceedings, December 23.

Before the jury were sworn to try the case, counsel for the prosecution said he proposed to put the following inte rogation to each juror:

Have you any prejudice against the Chinese as a race which would influence you in rendering a verdict in the case, where the person killed was a Chinaman?

To the putting of which interrogatory the defendant's counsel then and there objected on the ground that it would be equally proper to inquire of each juror if he had any prejudice against any other race.

Counsel for the prosecution stated it was proposed to ask this question not as offering a ground for challenge for cause, but for the purpose of discovering the opinion of the jurors, as enlightening the prosecution in regard to whether or not he might peremptorily challenge the juror.

The Court held that under these circumstances the question was a proper one and allowed it to be put.

A jury was obtained at 10 minutes to 2 p. m. on the 23d of December, 1879, and the trial of the case proceeded with at once.

SYNOPSIS OF TESTIMONY.

Dr. J. Thompson sworn—Reside in Butte; physician and surgeon; was called between one and two o'clock on the morning of the 12th of June, 1879, to attend a Chinaman who had been shot: found him on lower Main street in a little cabin; he was lying in bed with a gun-shot wound of the abdomen, the ball having penetrated perhaps the width of two fingers, or two inches; the result was fatal; the result of the examination showed the ball had entered the cavity of the abdomen, below the navel, the width of two fingers; it might have been three; the wounded Chinaman died about four or five o'clock on the afternoon of the 12th; the cause of his death was unquestionably the gun-shot wound.

Cross-examined—The result of such wounds is almost always fatal when they penetrate the cavity of the abdomen; there have been a few cases where the persons so wounded have recovered or where the wounded party did not die; could not tell anything particularly about the range of the ball; did not make a special investigation to ascertain; it seemed to be direct, however; went into the cavity without any tendency to range either right or left or up or down; the thickness through there into the cavity was about half an inch.

Al Dell sworn—Reside in Butte; saw defendant in King & Lowry's saloon before the shooting; he was in there drinking and talking to different parties; was somewhat intoxicated; had some words with parties from Walkerville; saw defendant have a pistol in his hand—a fire or six shooter; was trying to keep out of the way of it: it was a nickle-plated pistol; could not swear positively the pistol in court was the one defendant had; could not tell whether it looked near like it or not; it was about twelve or one o'clock when I saw defendant in King & Lowry's; do not remember the hour exactly; recognize defendant as the person I saw in King & Lowry's with a pistol in his hand. The pistol defendant had was about the same size and looked about the same as the one in court. Defendant had the pistol in his hand and was standing at the end of the bar; this was the time that City Marshal Beck came in. Mr. Beck reached for the pistol and said, "Give that pistol to me," and defendant said "No" I heard him say "I will not give you that pistol." If he said anything else I do not remember it. After this defendant put the pistol in his pocket and walked to the other end of the bar. While there he he pulled out the pistol again. I saw it up over the counter; then he put it in his pocket, remained there a few minutes talking and said, "I am going out and I don't want anybody to follow me." Did not see defendant after he left the saloon. At one time defendant offered to give his pistol to Mr. Sam Thompson; this was a time when he had it in his hand; it was by his side; do not know whether it was cocked or not. While the fuss was going on with the Walkerville men I went a man for Mr. Beck. That was why he came to the saloon. Parties got the chief Walkerville man in the row out of the house and his friends took him away. I heard the shots about ten or fifteen minutes after Hopkins left the saloon. After defendant left the saloon I started to go home; heard three or four shots—do not recollect which; supposed they were fired in the saloon and went back, but everything was quiet there. Saw the wounded Chinaman. Dr. Thompson was present; also, Sam Thompson, a man named Frisco; do not remember whether Wright Lile was there or not; think Johnny Thompson was there; there were others present but I do not recollect who they were.

Cross-Examined—Did not take particular notice of the pistol defendant had in his hand. Could not swear the pistol in court was the same one. All I can say is the pistol in court looks like the one defendant had. I reside right next to Templars' Hall. Thought the distance from the saloon to where the Chinaman was who was shot was three or four hundred yards.

Redirect—When defendant had the pistol in his hand in the saloon it looked like a cannon to me.

Recross—Have seen other pistols that looked like the one in court.

A. Levy sworn—Reside in Butte; know the defendant; saw him in King & Lowry's saloon on the 11th or 12th; do not remember the date exactly. It was about the time the Chinaman was shot. Defendant was drunk; think this was between twelve and one o'clock; did not notice the time. Saw defendant have a pistol in his hand. Could not say what kind of a one it was. He had it his hand, standing alongside of the counter, talking with Mr. Thompson, when I saw him. Did not see the pistol afterwards. Defendant left the saloon a few minutes after Frank Beck talked to him. There was a pretty big crowd and a lot of drunken men in the saloon. I did not want to be around. Heard defendant make a remark as to his fighting qualities with his fist. Did not hear him say anything about shooting anybody. Could not recognize the pistol in court as the one defendant had in the saloon; only saw it down by his side; could not tell whether it was a nickle plated one or not. A Chinaman came to the saloon and said that somebody was shot in Chinatown; did not hear any shots; saw the wounded Chinaman; did not take notice of the hour; can not say how long this ways after I saw Hopkins; thought it was an hour afterwards. I saw Hopkins after he was arrested; talked to him through the jail window. There was nobody present but ourselves. I said to defendant he had got himself in a nice scrape; that he was accused of shooting a Chinaman. "Oh, hell," Hopkins said, "I don't know anything about any China man." Hopkins was kind of sleepy. He had been woke up when he was called and dropped back to sleep when I went away. I had no conversation with him in relation to the pistol; none that I recollect. When I saw Hopkins in jail he looked pretty near like a lunatic. He was pretty drunk. I have related all the conversation that occurred at the jail as well as I can recollect in regard to it. I was the one who went for Beck before the shooting. There were some of the "Rainbow crowd" in the saloon creating a disturbance. They had broken a couple of windows when I came back. Hopkins was looking at the faro game. I saw the pistol in Hopkins' hand after I had returned from Frank Beck's.

Cross-Examined—The Rainbow crowd were pretty drunk. They were all on their muscle; all wanted to fight. That was the reason I went for Mr. Beck. There were five or six of them there. I saw one man take his coat off and want to fight. When I saw Hopkins in jail he had hold of the bars and was swaying to and fro while I was talking to him. He had the shakes or snakes; he was pretty drunk; could not stand up. This was along about daybreak of the same morning he was arrested.

Redirect—Do not know whether Hopkins had whisky in jail or not. Hopkins had tended bar for Fred Taylor. At the time this shooting occurred he was in business for himself; was keeping a saloon on Park street known as the Union House. A man named Coleman was said to be his partner. Do not know a man by the name of Jack Montague. Know a good many men by their first names but not by their last ones. Recognize Hopkins as the man I saw in the saloon with a pistol in his hand.

Recross—It was raining pretty hard that night and was dark.

Redirect—When I came back from Beck's the Rainbow crowd was going out. Things were just about quieting down. When I saw Hopkins have the pistol in his hand the Rainbow crowd was in the house. There were still some in there "monkeying" about the saloon. Do not recollect whether or not the crowd had any pistols drawn. Know that one of the Rainbow crowd had his coat off in the saloon and was declaring himself a fighting man. Do not know whether Hopkins talked to the man who had his coat off when he had his pistol out. They were all around there; all fighting.

Wright L. Lile sworn—Reside in Butte and have lived there something over three years. Know Hopkinks. Have known him something over a year. Think I saw Hopkins at twelve o'clock or after on the morning the Chinaman was shot—the 12th of June last. I saw him in King & Lowry's saloon; can hardly say what he was doing. He seemed to be drunk considerably. Saw him have a Colt's self-cocking revolver in his hand. He was doing nothing with it but holding it in his hand. Can not swear positively the pistol in court is the one defendant had in his hand in the saloon, but think it looks like the same make of pistol. Hopkins put the pistol up and went with me to Todd's saloon, across the street, about 125 feet. While we were in King & Lowry's Frank Beck told me to take Hopkins off to bed. Then I went and spoke to Hopkins. I said, "Let's go to bed," just that way. Finally Hopkins consented to go, but on the way down, in front of Todd's saloon, he wanted to go back and take a drink. I said "We can get all the whisky we want here." He kept on insisting on going back. I told him I would not go: he got his pistol out; I told him he had better put that up. This was in front of Todd's saloon. I said you are liable to get yourself in trouble, so he put it up. Then he wanted to go back to King & Lowry's. I said you are liable to get yourself in trouble if you go back; you had better go to bed. He pulled the pistol out again, I said, "Jenny, by George you had better put it up." I came away because I was afraid he might accidentally pull it off. I went into the saloon; he came in and treated; then he wanted me to go up to King & Lowry's again, and I told him I would not do it. I told him he had better go to bed; if he went over there he would get himself in trouble. He asked me several times to go up with him. Finally he started out. I stayed there a minute or so and then started to go up there myself and met him half way between Todd's and King & Lowry's, I spoke to him but he did not make any answer. Remained in Todd's two or three minutes; was absent from King & Lowry's not more than three minutes. Only saw him take a drink in Todd's. Could not swear as to the direction Hopkins went when he left Todd's, but thought it was up street. King & Lowry's is up street from Todd's. Met Hopkins in the street. He was going toward's Owsley's stable; Chinatown is down the street. He was not going right direct for that. It is a little quartering. He was going in the direction of where the Chinaman was shot; he was going down, quartering. * * Heard shots. It was about half an hour after I had seen Hopkins. I was then in King & Lowry's saloon. Think I heard three shots; heard a report of something. Some one came in the door and said a shot had been fired down street. A few minutes after the shots were fired a Chinaman came up to the saloon and said a Chinaman was shot, and he and I and two or three others went down there and found a Chinaman shot in the belly, about an inch below the navel, I think. Did not see Hopkins after I saw him go down street and before the shots were fired. Saw where a shot was fired into the window casing of the cabin where the shot Chinaman lay. The shot was from the outside. There was a hole in one of the panes of glass in the window; looked as though the hole had been made by a bullet shot from a gun or pistol. In examining the window-casing I thought I had found another place than the one described where a ball had entered, but it was only a where a nail had been driven. Believe I gouged it. I took the bullet out. Saw defendant the next day or day after the shooting; had no conversation with him in relation to the shooting. I got afraid of Hopkins when we were in front of Todd's. Saw he was considerably drunk, and as he raised his pistol up I was afraid he might let it go off accidentally, and, therefore I went into Todd's. There was no trouble between us. When I told him to put it up the second time he kind of raised it towards me, but I don't think he meant anything at the time. I knew it was a self-cocker and he was liable to pull it off. I suppose Hopkins had been in King & Lowry's over an hour when I saw him with his pistol out. He was pretty full; pretty drunk. Hopkins had a little fuss in there with a fellow by the name of Mullen, I think, and Frank Beck or somebody stepped it; the barkeeper stopped them. Do not think anybody in the room could tell the direction from whence the shots were fired; cannot tell myself; just heard them. I had the bullet in my hand in the China house; several had it. A Chinaman first gave it to Lou Smith; cannot tell what Chinaman; hardly know one from the other. The bullet had been gouged out of the window casing. Lou gave the bullet to me and I kept it until the next day and then gave it back to him. [Bullet was shown witness.] It looks a good deal like it; I could not swear positively. It has been a long time ago. The bullet looked as though it had been fired out of a gun. The point looked as though it had come in contact with something hard.

Cross-Examined—The point end of the bullet was battered; do not think it had been molded so. To the best of my knowledge and belief I would swear the hole shown me in the casing was made by a bullet. It looked like a bullet hole. I have seen lots of bullet holes that looked just like that one did. The hole through the pane of glass was about three inches in circumference; think it was about an inch across. Could not swear positively where Hopkins did go when he went out of doors. He went in this direction [illustrating]; a little toward's Owsley's stable; a little quartering across. Think the Rainbow crowd was pretty drunk. They were making considerable noise. It was not a very dark night; it rained afterwards. It was before the firing I saw Hopkins passing down towards Owsley's corner. Saw the Chinaman give the ball to Lou Smith. Heard him say he got it out of the hole in the window-casing.

Redirect—Think the business defendant was engaged in at the time of the shooting was that of tending saloon or Park street at the Union House [Witness described location of Stoner's stable.] Stoner's stable was below where the Chinaman was shot and on the opposite side of the street. [Explained how, by diagram, he saw Hopkins go down street.] Do not know where he went from there: sure I saw him go down street, quartering across. Do not know any man by the name of Montague. Might know him by sight. Never got any pistol from Hopkins at any time. Was asked next morning by Coleman and Sterling whether I had seen Hopkins' pistol or not, and answered "No."

Under-Sheriff Lou P. Smith sworn—Was in Butte at the time the Chinaman was shot. Was called up, perhaps, a little past two in the morning. Went to where the Chinaman was shot; saw the wound. Stopped there but a very short time. The second time I saw the Chinaman he was very low and seemed to be sinking. Started for the Union Saloon on Park Street. [Explained by diagram the lines of the streets and location of houses.] Went in that direction in search of Hopkins. Went to the door of the Union Saloon; light burning inside. Could see in the room through the curtains. There was a glass broken. Beck put his hand in and tried to unlock the door. Beck was with me. Woke somebody up. Recognized it to be Coleman. Saw Hopkins was not there. Found Hopkins coming out of an alley in this direction [illustrating]. Met Hopkins just at the edge of the street. We met right there together, 50 or 60 feet from the Union House. He was going to the north. He had his hat pulled down over his face and was somewhat intoxicated. Did not recognize him at first. As he turned quartering past my left shoulder I detected it was him. It was a stormy night and very dark; raining very hard. Hopkins' clothing was wet. Hopkins was arrested, searched and taken to jail. When first taken hold of Hopkins had his hands in his pockets. He inquired what they wanted of him. Beck had grabbed him from behind. He said, "I have not got anything." We told him we wanted to see. We asked him what he had done with that pistol; said he had got nothing. Answered three or four times he had got nothing. Took him to jail; searched him more thoroughly; asked him again for his pistol. He said he had none. I said I want that pistol you had this evening or I want you to tell me where it is. He said again he had no pistol. At last he said "It is none of your damned business." Found no weapons on him of any kind. Had a talk with him about the pistol. Then he said, "I gave that pistol away last night before this shooting occurred." I said it you will tell me the man you gave it to I will try and get you out of this difficulty. He gave me no reply to that at all. I can identify the pistol in court as one that came into my possession for safe keeping. [This was a pistol that had been found about nine o'clock in the morning of the same day the Chinaman was shot.] Mr. Beck had the pistol when I first saw it. There were two loads in it; the other barrels were empty. The shells were in them. The pistol found probably might have had a little more rust on it than as it appeared in court. Did not see Mr. Beck when he got the pistol. [Bullet shown witness.] This bullet was handed to me next morning by a Chinaman. I gave it to Wright Lile to put in his pocket, and he kept it until I called for it. He kept it until the next day and returned it to me. I kept it afterwards until it was given to Mr. Mayhew. Hopkins said to me since he was a prisoner there was a game put up on him to make him stand the consequences. I think that was the only time Mr. Hopkins ever alluded to his case to me. [Witness showed how far defendant was from Stoner's stable when arrested.] Was called up by Mr. Yeager. Do not think it exceeded 25 minutes after I was called up before Hopkins was arrested. Should think the cabin where the Chinaman was shot was distant from Stoner's stable a couple of hundred feet, down on the opposite side of the street, and probably four or five hundred yards from the Union House. The Chinaman who was shot was lying in a bunk at the back end of the room he was in. It was a single bunk. I think the bunk was a little higher than this table. Went to the China house in the morning and started in to search for the pistol as soon as it became daylight. Hunted for the pistol and then went and examined the house. There was a pistol shot through a pane of glass; also, another one in the window-casing, where the ball had lodged. The ball struck directly in the corner, cornerways, and lodged in the place beyond. Examined the places; inquired for the ball taken out of these. Then a Chinaman gave me this ball. It was a shot, that did it. The glass was nearly all in the window when I first saw it. Did not notice any powder-burn on the window-casing. The room in which the Chinaman lay was about 11 or 12 feet deep. It was not a large room. The window was probably 2½ or 3 feet from the ground. I should think the bullet-hole in the window would be a little higher than the bunk. The ball did not break the glass out of the window altogether. It broke a hole. I went out and examined the house on the outside. Did not examine the Chinaman's bed clothing. There were several in there when I went in. I just went in and saw where he was hit; then I went back again. Hopkins had told me he was a partner in he Union Saloon. I never had any conversation with Hopkins about his pistol except trying to find out where it was. The ball in court fitted the calibre of the pistol in court. It is made for that calibre of pistol in my judgment. I have tried it.

Cross-Examined—Cannot swear positively where the pistol has been since it was found. I told Mr. Beck to take care of it. He has had it in his possession since the 3d of December, 1879. It has been in the Sheriff's office. I think there was a little more rust on the pistol when I first saw it than now. So far as the loads are concerned, it is in the same condition as when found. It was about nine o'clock in the morning when the pistol was found. Do not remember the hour exactly. It was in the fore part of the day. Hopkins was not over two or three feet away from me when I first saw him. Do not think the hole in the window-pane could have been made by a bullet thrown from the hand. There was nothing to tell that the witness had noticed whether the ball that broke the glass was fired from the inside or outside of the cabin. I found a lead-mark in the hole where the ball had entered the window-casing. The bed of the bullet showed very plain in the casing. I should judge it was a little past two o'clock when I was woke up. Could not tell exactly. Did not think to look. Do not think I had bed long. I feel confident it was between 2 and 3 o'clock when I was called up.

Re-direct.—Did not compare the place where the bullet had been embedded in the casing with this bullet; made no comparison at all. Could not say what sized bullet made the hole. Could say it was not out of a Minnie rifle. The place where the bullet struck in the casing was leaded. It was a fresh mark. It was not an old one, but would not say how old. Hopkin's clothes were wet when he was arrested. He had not got on the street. He was here at the line of the building. We came up and were probably not over two feet apart. As he passed I recognized him; that is, I thought I did. He had turned towards the Union House. Mr. Beck said, "Hallo! Hop." I cannot tell whether I spoke before that. My recollection is that was the first said. I don't think Mr. Hopkins spoke to Beck, but spoke to me. At that time I had taken hold of his hands and he wanted to know what I wanted with him. It occurred there very quick.

Re-cross—I know nothing about the shooting. I heard no shots fired and know nothing about it. I believe that the bullet in court, with the point smashed down or swedged, was not moulded in that manner, but had been fired out a pistol. [Witness could make the butt end of the bullet fit in the shells in court.]

Re-direct—I judge the swedging was caused because the ball had been shot and had hit some hard substance.

J. P. Beck sworn—Reside in Butte. Was there last June. Was officially acting as Deputy Sheriff of this county. Know the defendant. Saw him on the 11th of last June—11th or 12th—in King & Lowry's saloon. Was called to go the saloon. Do not know exactly the hour. It was sometime about 11 o'clock. I had retired and was aroused by some one rapping on the door or ringing the bell. Went to the door and was informed Mr. Dell wanted me to go over there. Some Hainbow boys were there drunk and breaking windows and disturbing the games. He wanted me to go there and take charge of them. Went and looked in through the glass front. Saw Hopkins and Sam Thompson standing by the counter or bar. Hopkins was standing apparently listening to Mr. Thompson talking. He was standing with his left side to the counter. His left arm, I think, was raised and on the counter. I remained outside for perhaps half a minute, and went in. Met Mr. Welsh. While talking with him I saw in Mr. Hopkin's right hand something which I took to be a pistol. Took a second look. The second look convinced me it was a pistol. I walked up and grabbed the pistol and remarked to him if he did not put it up I would take it away from him. Defendant had it in his right hand at the time. He did not appear to be doing anything but talking; in fact, I could not hear what the parties were saying. Mr. Thompson appeared to be doing the talking to Hopkins. He changed the pistol over to his left hand, I thought, and asked what right I had to arrest him. I paid but little attention to what he said. Asked Mr. Welsh if defendant was not on a bender or on the war-path. [This last was objected to by counsel for defendant, and the objection sustained.] I spoke to Wright Lile about this time. He said Hopkins was drunk some. I said, "You had better take him home; he is liable to get in trouble." Lile approached him and he and Hopkins went out of the saloon. I then approached and talked with Mr. Yeager, the night-watchman. Remained there a few minutes. Saw defendant within five or ten minutes after that time. Saw him at the faro table in King & Lowry's saloon. Saw him at the corner of the table. I was looking through the glass front. Saw him make a motion as if going into his vest pocket for money. Drew a cigar from his vest pocket and lit it, gave a few whiffs, arose from the table, come out, walked down Main street, and I saw him for perhaps 30 or 40 feet. I said, "Let's shadow him," Defendant turned and went in the direction of his home or place of business—the Union Saloon. We watched him as far as we could see him. Do not know whether there were any lights on the street or not. After standing there a few minutes, it was raining, I went home and went to bed. Was aroused by Yeager. Cannot tell how long it was after I had retired. I had retired and had fallen asleep and slept some. Yeager said, "Get up, that man—" [objected to]. Got up. First went out to Lou Smith's place; met Thompson and Attorney Mayhew; turned from them and I met Lou Smith and Mr. Yeager. We three went down to the cabin where the Chinaman lay who was shot. Saw the Chinaman at a distance of 6 or 8 feet. Observed that the pistol defendant had in his hand in the saloon was a nickle-plated one. Could not tell what the make was: only saw the pistol momentarily. It was a bright nickle-plated pistol Dr. Thompson was probing and examining the wound when I reached the place where the Chinaman was shot. Saw the Chinaman again. He was lying there as a corpse. Took it for granted it was the same one—was in the same house. Went to the Union Saloon with Smith and Yeager. First attempted to get into the saloon part of the building. A lamp was burning in the dancing apartment, or sleeping apartment, rather. Found the door locked. The curtain was not quite down to the bottom of the glass. Looked under and discovered there was some one in bed. The door being locked I put my arm in (a light being broken out) but found I could not undo the door. A portion of the broken glass dropped down and the person in bed rose up. It was Mr. Coleman. We did not go into the room. After leaving the saloon perhaps about 60 feet—should judge the distance was—there were open vacant lots used as a pass-way. As we were walking along some person came out. He came up diagonally towards me. At first I did not recognize the party. I noticed he had his hat down over his face. Recognized him as being defendant, whereupon I made a spring and grabbed him from behind by both of his arms. Defendant was coming from below. This was 50 or 60 feet, perhaps 100, from the Union House. [Explained by diagram.] He was bearing off towards the Union Saloon building; was walking with his head down; was pretty wet. We told him we were looking for him and wanted him. Do not recollect what he said. Took him down to the calaboose and locked him up. Searched him right at the time of his arrest hastily, but did not find any pistol. I believe I asked him what he had done with his pistol. He declined to answer. I think that occurred on the way down to the calaboose. At the calaboose we found on him a few pieces of coin; perhaps a small knife and one or two small keys. He had no weapons on him. We again interrogated him as to his pistol and he said he had given it to somebody, but refused to tell to whom, and even got rather short and cross, and I believe told us it was none of our damned business. We told him if he would tell us to whom he gave the pistol we would try and get him out of the difficulty. He said he gave it to somebody, but would not tell to whom. Believe I recognize the pistol in court; saw it in Butte; saw it on morning of the day the Chinaman was killed; should think about 8 o'clock. It might have been earlier or later; have no distinct recollection. Saw it in the rear of Mr. Stoner's stable on the prairie. Stoner had it and gave it to me. Do not know of my own knowledge where Mr. Stoner got it. It was wet and somewhat rusty, with mud and dirt sticking between the cylinder and the journal upon which it revolves. Four chambers were empty and two were loaded. I had the pistol in my possession locked in the safe until about the first of this month. Then I laid it out of the safe into a lock drawer, with directions to my wife to give it to Mr. Lou Smith; that I was going to the Sun river country and perhaps he might want to bring it down here. I went on my trip. I do not know how it came to Deer Lodge except from hearsay. I believe the pistol in court to be the same one I had in my possession. [Explained by diagram the relation of the bunk in which the Chinaman was when shot to the window.] The bunk was 18 or 20 inches distant from the window; might have been two feet. The window is near the northeast corner of the cabin; the bunk lays opposite the window. We discovered on the south side of the window a bullet mark on the casing; apparently shot diagonally—from a little further up Main street than directly opposite the house. Saw one light broken in the window. It is my recollection that the glass was considerably broken. The window glass, as compared to the height of the bunk, was a little higher, I should think. There might not have been very much difference. It was a small log cabin.

Cross-Examined—Believe I had my hands on defendant first when the arrest was made, although we were all there at the same time. We were walking about three abreast. Yeager, Smith and myself were there. [Described the ground.] Do not think the vacant space was as much as 84 feet front. I had the number of the pistol found but have lost it. I will swear I believe the pistol in court to be the one I gave Mrs. Beck as firmly as I believe I exist. Do not think I would be going too far to swear it was the same pistol. Think it was 50 or 100 yards from where I last saw defendant to the place where I saw him again when he was arrested. It might not be so much. Do not think I ever noticed the distance particularly. Have been over the ground many a time. There were four shells and two loads in the pistol at the time I let Mrs. Beck have it.

Second day.

Luther Yeager, night watchman, sworn—Saw defendant on the 12th at King & Lowry's saloon; he was talking there to Sam Thompson. A few minutes afterwards I saw a pistol in his hand. Do not think I could recognize the pistol. The one in court looks like a pistol of the same make. Defendant was in the saloon, where I saw him, probably ten minutes. He went out of the saloon and was gone some time, probably 15 or 20 minutes, and came back again. Think I saw him at the bar of the saloon again. Think when defendant went out, did so with Wright L. Lile. Am not positive. I went out of the saloon and went up street, and was gone from the saloon from 10 to 15 or 20 minutes. When I returned to the saloon saw defendant there. He did not seem to be doing anything. Defendant stayed there a few minutes and came out of the saloon again, and went down street. I left the saloon with Mr. Beck, and went down to the corner by Mr. Owsley's stable. Mr. Beck made the remark, he thought Hopkins had gone home. Saw defendant go probably 20 or 30 yards. Hopkins went down toward Union Saloon, on Park street. Mr. Beck went over home and I went with him, then I came back to the corner of the stable. Heard some person knocking on Park street, but could not see who it was. Knew defendant's voice and heard it. Heard him ask to get in the house. Think it was at Lizzie Kimball's the knocking was done. This was perhaps 20 minutes, or somewhere near that time, after Hopkins turned Owsley's corner. Saw him probably a minute or two afterwards, further up the street, toward the stable knocking at Lottie Blair's door. Did not hear him say anything. He came up street and knocked on another door, Florence's. He came up street and passed where I was. I was standing by a wagon by the corner of Owsley's stable. He passed within probably 20 or 30 feet of me. Recognized him, and knew it to be Hopkins. Identified defendant in court as the man who had passed him. I followed down after him. He came to a China house on Main street, and I saw him knock on the door and heard him. I recognized his voice. He wanted to get in. He left that house and went to another China house. That was the place where the Chinaman was shot. He knocked on the door there. I heard him ask them to let him in. Then he left that house and went further down in Chinatown. I then turned and went back up town. Went to Sabolzsky's saloon. Had not been in the saloon over three minutes when I heard shooting. A Chinaman came up to the saloon and said a Chinaman was killed. [Witness then detailed all proceedings that led to Hopkins' arrest. His testimony was the same as that of Smith and Beck.] I asked defendant where his pistol was. Defendant said he had given it to Wright Lile.

Cross examined.—I am positive I heard one shot. I would not be positive I heard more than one.

S. B. Thompson sworn—Saw defendant have a pistol in King & Lowry's, about midnight or morning of the 12th. It was a Colt's self-cocker, like the one in court. After I had got two noisy men out of King & Lowry's saloon, Hopkins said to me: If you want a six-shooter, here is as good a one as you ever had. Witness detailed all that had occured in the saloon that evening and behavior of defendant. The testimony was the same as that given by other witnesses.

I. L. Stoner described the finding of the pistol. I first saw it about four rods back of my stable. It was lying by the side of a path. I should think about two feet to the left of the path. It looked as though it had just been dropped there. I saw there were four chambers empty, and I think there were two loads in the pistol. Some Chinamen came running into the stable. They pulled me and led me to where the pistol was.

Cross examined—This was between 8 and 9 a. m. on the 12th.

L. P. Smith re-called—Gave the number of the pistol found, 15,836. Mr. Beck took the number of the pistol down at the time he first got it.

Beck re-called—Did not remember the number of the pistol, and had lost memorandum of the number.

Ah Sick, Chinaman, was sworn, according to the usual form in court, to act as interpreter.

July, Chinaman, testified to the finding of the pistol and its passing into the possession of Mr. Stoner.

Lee Ah Lee, Chinaman, corroborated the above.

Ah Quong, Chinaman, sworn—Lived in the house where the Chinaman was killed. Ah Foo was asleep "way up." I was asleep "way down." Heard pistol shots.

Q—About what time? A—A little over 2 o'clock. He got no watch. Cannot tell certain.

Q—How many times did he hear that pistol go off? A—The first time he shoot, come through window, break glass. Make him scared. Take blanket and wrap him all up over here.

Q—Ask him how many shots he heard? A—Two times.

Q—Ask him the name of the man who was shot? A—Ah Foo.

Q—Ask him if he heard Ah Foo say anything after these pistol shots? A—Ah Foo say I get shot. I pretty near dead. You get somebody to arrest that man. That is all he said.

Q—Ask him whether Ah Foo said this before the two shots were fired or afterwards? A—First time the shot broke window and just about little while he shot other one. Then he hollered. Then say he got shot.

Q—Ask him what else he saw or heard there? A—He say first time he broke the window; shot in the frames. He say when he broke window, he rolled in the corner. And other ones shot again. See pistol right in the window that way. Real black. Ah Foo say he got shot. Then he was roll in the corner then.

Q—Ask him which way he looked when he rolled in the corner? A—He say he roll in the corner there. He just look that way, and Ah Foo say I be dead pretty soon then. Then see man put face right in the window. He said he had light there on the table. Man come back to sleep.

Q—Ask him if he saw anything there that evening after the shots were fired? if he saw any person? A—Yes. When pistol gone out, he see right in the corner. See man put his face close to the window.

Q—Ask him if he knew that man? A—Yes, say that the man. [Identifying Hopkins.] He say then he run out in the street to call Frank Beck.

Q—Ask him if this man put his face to the window before or after those shots were fired? He say first time shot did not know which way come. After while shoot again. Then pistol point come in the window, and shoot him over. Then put face in the window.

Q—Ask him if he put his hand in the window when he shot? A—He say see hand hold pistol.

Q—Ask him when it was he saw the man's face? A—Well, he say he fire pistol, pull pistol out and put his face in the window.

Q—Did he put his face clear inside? A—He put his face outside.

Q—Ask him how long after he heard the first shot until the second shot was fired? A—First time shot broke window. Then he rolled in the corner. Then put pistol right in the window, and shot again.

Redirect Q—Ask him if the man's face was up against the window, or outside? A—Face was outside.

Q—Ask him if the glass was between him and the man's face? A—Yes, face close to the window.

Q—Ask him if he saw a man at King & Lowry's by the name of Levy? A—He say he don't know.

Q—Did he see this man there? [Levy stood up.] A—He say he don't know, but he can remember this one [Mayhew.]

Q—Ask him if he did not tell Levy (tell this man) that he did not know who shot the Chinaman? A—He say lots of men in there. He can't remember which one. Man walk off with him.

Q—What did he tell the man who walked off with him as to who shot the Chinaman? A—Well, he say somebody walk him over. He say only, white man kill Chinaman.

Q—Ask him if he did not tell Levy he did not know who killed Chinaman? A—He say he never said anything.

Q—Ask him if he is sure of that? A—He say he never tell, but say white man kill Chinaman.

Q—Ask him if anybody went back with him down there, from the saloon to the China house? A—Yes, he say lots of men run down. He don't know which one; how many.

Q—Ask him if he did not tell a white man he did not know who shot the Chinaman? A—No, he say he never said that.

A. Levy called by prosecution.

Q—Do you remember me calling you in here to have you identified by a Chinaman on the stand? A—Yes.

Q—Do you remember having seen that Chinaman before? A—Yes.

Q—Where did you see him? A—In Butte City.

Q—Did you have any conversation with him