

and Mitchel took hold of his arm and told him not to do that; I turned around to go out and I heard a shot; I looked and saw Brock with the gun in his hand; he fired and Foote fell; I did not see the first shot fired; Brock came out and gave his gun to me; there were three loads in Brock's revolver before the shooting and one after; I did not examine Foote's revolver; Brock said something before he came out about if any of the rest of them wanted anything; Foote had his hand on his hip or his revolver when I turned around; I wouldn't be sure which; I examined Foote's body after he fell, he was shot between the eyes.

To Mr. Brown—When Foote had the scales in his hand striking at Brock, he made some threatening remark; Brock dodged the blow and asked Foote if he meant to hit him; a man might be killed with the scales; Mitchell took the scales from Foote and gave them to me; I went out then and tried to get some of Foote's friends to take him away; was afraid there would be trouble; Foote told Brock he had got to set the drinks up after the weighing; Brock did not set them up; Foote went to jerk his gun and Mitchell stopped him; Foote seemed to want to get away from Mitchell; thought he wanted to shoot Brock; found the ball of the first shot afterwards; it was in the wall about a foot and a half from the floor to the right; I should judge it had been fired at random by Brock; I don't think it was fired by Foote; the second shot was fired almost instantly; at the time of the shooting there were only four in the saloon, Brock, Foote, Mitchell and myself.

Re-direct—It looked to me like Foote made a jerk when Mitchell took hold of him; the scales were about a foot and a half long; they would weigh a hundred pounds; if Foote had struck Brock he would have knocked him senseless, if he had not killed him; both men had been drinking some, the first time I thought the shot went off accidentally.

John Z. Alger—I live at Emery County; was at Brock's ranch on the day of this shooting; I was down by the creek when I heard the reports of the pistol; went up and saw Mr. Brock, Jack Cole and Jed Lunt standing talking; I went in and saw Frank Foote lying on the floor; did not examine him at the time; was called on by the sheriff and examined the man the next morning; he was shot in the nose; the ball came out at the back of the head; I drew his revolver out and saw there was one load in it; the body was in the same condition the next morning, as near as I can judge, as when I first saw it.

Isaac R. Workman—I live at Uintah county; was at Brock's ranch on the ninth of November last; I and Mr. Egan went in to dinner and as we came back I stepped into the sitting room; I heard quite a racket in the other room and I stepped out and saw Frank Foote trying to draw his gun; he had it nearly out when he was stopped by Mitchell; I lit out then; I stepped

behind the door and heard two shots in quick succession.

To Mr. Brown—I saw Mr. Foote about a week before chasing Mr. Brock; he had a rock in his hand and wanted to make Mr. Brock set up the drinks; at the time of the shooting I did not stay in the room any longer than it took me to go through.

Re-direct—When I got through the room I turned and saw Mr. Foote trying to draw his pistol.

To Mr. Brown—When Foote drew his revolver I did not see any weapon in Brock's hand.

Mr. Egan was recalled for the defense and the scales were produced and identified. The scales were offered in evidence.

C. H. Valentine, the coroner of Emery County, got over to Brock's ranch about 3 o'clock the next morning; the body was lying on its back with the head towards the door; he noticed a wound on the bridge of the nose and back of the head; the body was placed in a box and taken to P. V. Junction.

John Cole was at Brock's ranch on the day of the shooting and saw Brock and Foote there; tried to get Foote to go with me; they were scuffling and wrestling around there; I stayed outside with my horse; I did not see Mr. Brock shoot, but I saw Mr. Foote fall; Mitchell had his hand on Foote when the first shot was fired; Mitchell then came towards the door and the other shot was fired; Brock came to the door and asked him for his gun; he said they couldn't make any gun play on him; he gave his gun to Mr. Egan; after the shooting I went into the room and saw Mr. Foote lying there; his face was lying in the dust and blood and I moved it back.

To Mr. Brown—I saw Foote have his hand where his pistol was and Mitchell had his hand on Foote's hand; Foote was a friend of mine.

Jed Lunt had seen Foote and Brock wrestling and heard Brock abuse Foote several times.

Mr. Egan, recalled, said he had not heard the abusive language referred to by the previous witness.

Mr. Mitchell was recalled and confirmed his former statements.

The prosecution then rested.

Mr. Brown stated to the jury that the defense expected to prove that Foote was a bully and had taken a dislike to Brock. He was an expert with a pistol and Brock had acted in self defense.

A deposition of Sargent Clay was then read in relation to the previous character of Foote. Instances of his having shot out the lights in the windows and into the walls of the house, etc., were represented. He had made threats of killing Mr. Brock, if Brock did not open the door of the saloon on a Sunday.

A deposition of Rhoda Hawkins, similar to that of Sargent Clay, was also read.

Court then adjourned.

TUESDAY, SEPTEMBER 23.

Charles D. Smith pleaded not guilty to the charge of adultery. The case was set for October 5.

Kate Houtz pleaded not guilty to the charge of fornication.

The grand jury came into court and reported eleven indictments.

The following cases were ignored: United States vs. Shadrach Driggs, and the People vs. S. F. Mount and J. W. Corns, et al.

Testimony for the defense in the Brock homicide case was continued.

George Adams testified—I was acquainted with Frank Foote; I saw him shoot through the window one day and through the roof a couple of times; he was under the influence of liquor; he came near shooting a little boy when he shot through the window; I did not hear him say anything about Brock; the general reputation of Foote was that he was a bad man with a gun.

E. W. Guyman—In the fall of '89, I was freighting from Price to Vernal; I had met Mr. Foote and I knew Mr. Brock; I saw them together about two weeks before the shooting; they had been playing cards and Foote threatened if Brock did not continue playing he would kill him; Foote's reputation was, that when he was under the influence of liquor he was a bad man.

To Mr. Evans—I have known Brock three or four years; Brock said that if Brock did not play out Egan's game, he would kill him; I heard that Foote came nearly killing one of his younger brothers once.

Charles Benum—I do not know what Foote's reputation was; know he was a good shot.

Charles Baldwin—In the fall of 1889 I was driving stage from Duchesne to Mr. Brock's place; heard of the shooting by which Mr. Foote was killed; saw the two together shortly before the shooting; Mr. Foote compelled Brock to play cards with him; Brock didn't want to play; Foote said if he didn't play he would kill him and take possession.

Several other witnesses testified to the disreputable character of Foote.

The defendant, Brock, testified—I went to Brock's ranch in 1887; kept a supply store and the postoffice there; don't remember getting right well acquainted with Foote until the winter of '88, Mr. Foote came there and wanted whisky and I didn't want him to have it; he threatened to do me up or kill me; while he was not watching me I got into a sleigh and went off; when I came back I found the window lights shot out; he shot several times before I left; I was afraid of him; one time he came and wanted to play cards with me for the drinks; he threatened to beat me or do me up if I didn't; another time when he and Egan had been playing cards, I came into the room and Egan slipped out; he wanted me to take Egan's place, but I didn't want to; he took hold of my wrist and twisted it and threatened me until I played with him; another time he chased me with rocks; he had threatened me about a dozen times before the shooting; I was afraid he might kill me; I knew he was a good shot; on the day of the shooting he came in about noon; as usual he insisted on me setting up the free drinks; I told him I had set 'em up enough; he was on his horse