

[REPORTED.]

## THIRD JUDICIAL DISTRICT COURT.

WEDNESDAY, Sept. 22, 1859—9 a.m.

Court met pursuant to adjournment.

Marshal Hunt was called to the stand and the judge said to him: You are represented to me, by several gentlemen, a poor, unfortunate man, and I am told that you frequently err; we all err; I will therefore remit your fine, and still hold you in the same recognizance as before, to appear before this court to give evidence in such matters as may be required of you.

To the traverse jury his honor said: Gentlemen, I have seen it stated somewhere that the judges of this Territory are much in the habit of making speeches. I am not anxious to make a speech, but I am really anxious that the law shall be administered; I am anxious to see justice done, so far as the poor abilities I possess will enable me to do it, and that without fear, favor, or reward, because if we do not do this we must run into one wild state of barbarism, therefore I will tax my best judgment to bring criminals to justice, and I will have those witnesses before this court, who have for some cause gone without its process. With these remarks, and for reasons best known to me I adjourn the investigation of this case until to-morrow morning at 10 o'clock, at this place.

Court adjourned till Sept. 22, at 10 a.m.

THURSDAY, 22—10 a.m.

Court met as per adjournment.

The case of the people vs. Thomas H. Ferguson, on indictment for murder, was called and Mr. Williams, counsel for defense, asked for a continuance till this afternoon.

The court would not do any such thing, but would proceed with the trial without further delay.

Mr. Williams then wanted time to send to the library for authorities, but his honor refused to wait and said that lawyers should have a library with them.

Mr. Williams said that a man could not always have a library with him when it had been once burnt up.

His honor replied, those remarks are not pertinent to the case before the court.

Mr. De Wolf moved that David A. Burr, Esq., late clerk of the court, be admitted a member of the bar, upon which the judge remarked: I consider Mr. Burr qualified to practice before any court of the United States, and he will therefore come forward and be sworn.

John Martin Luce and Nephi Packer were held in the penal sum of \$3000 to appear before this court, any time during the present, or at its next regular term, to testify as witnesses in the case of the people vs. Deloss Melvin Gipson.

The court then proceeded to impanel a jury to try Ferguson as follows:

John Taylor, challenged peremptorily by defense.

Richard R. Pettit. Here Messrs. Hickman and Williams contended that the prosecution ought to pass upon the jurors first. The Dist. Attorney objected, and argued that in capital cases it was the duty of the defense first to pass upon jurors.

Judge Sinclair explained the common law on the subject, but said the territorial legislature had a right to control the common law, and also to say who should sit upon juries. His honor then referred to the late jury law and ruled that the defense should first pass upon each juror.

Pettit was taken.

Robert Pearce, challenged peremptorily by defense.

Hezekiah Thatcher, challenged peremptorily by defense.

Alonzo S. Blair, taken.

Joel J. Terrel, taken.

Elisha Grinard, taken.

Jacob Weiler, challenged peremptorily by defense.

John Reese, taken.

Isaac Bowman, challenged peremptorily by defense.

Lewis Robison, challenged peremptorily by defense.

Joseph Woodmansee, taken.

Richard Bentley, taken.

S. D. Sirrine, excused by the court on account of sickness.

Oliver Speed, excused by prosecution as a resident of first district.

Henry Woodmansee, taken.

E. W. East, had formed an opinion by hearing the case before Justice's court.

The panel being exhausted, the court issued an order to the marshal to summon talesmen sufficient to fill the panel, and instructed the jury to hold no communication with any one except a fellow juror, while the court was waiting the return of the marshal.

Orson Pratt, jun., taken.

George Boyd, challenged peremptorily by prosecution.

Joseph B. Nobles, was opposed to capital punishment.

B. T. Mitchell, taken.

E. P. Duzette, taken.

H. L. Brigg, taken.

The jury were then sworn by fours.

Hosea Stout, Esq., opened the case for the prosecution and Mr. Williams presented the case to the jury for the defense.

The following witnesses were called and those present sworn in mass for the prosecution:

Parmentio A. Jackman, William Capener, Robert Sharkey, Thomas Carboy, Daniel Grenig, Marshal Hunt, J. W. McCormick, not present. Aurelius Miner, John Squires, Rich-

ard Gill, W. J. McFadden and David Candland.

Immediately after the examination of P. A. Jackman and D. Candland, Mr. Williams arose and argued that the prosecution were only allowed two witnesses by the statutes of Utah.

His honor said, the assumption was preposterous and that the only object and design of the statute, which prohibits more than two witnesses being called to prove the same fact, is to prevent parties being taxed with unnecessary expense.

The evidence for the prosecution was so positive and conclusive that after examining P. A. Jackman, David Candland, W. J. McFadden, William Capener, Aurelius Miner, and Daniel Grenig, Mr. Stout informed the court that he would rest the case on the part of the Territory.

The witnesses for the defense were Charles Putman, Marshal Hunt, J. N. Cochran and Isaac Duffin; but the defense set up did not amount to anything like palliation or justification. Putman had heard Carpenter, the deceased, make some threats, but did not know who they related to. Mr. Cochran had heard deceased say on the morning of the shooting that if Ferguson did not let him alone and keep away from him he should have to kill him. Marshal Hunt said he was so drunk at the time that he did not know what took place. Mr. Duffin was simply called to prove that the prisoner and deceased were partners, but he proved, instead of such being the case, that the prisoner was only employed by deceased to make boots and shoes.

Mr. Stout expressed himself willing to waive his first speech to the jury, but the defense objected; therefore the court required Mr. Stout to make some remarks; whereupon he arose and called the attention of the jury to the law under which the indictment had been found.—[See page 182, revised statutes of Utah.]

Messrs. Williams and Hickman addressed the jury for the defense, and Mr. Stout concluded for the prosecution.

The court instructed the jury in the law in a very clear and impressive manner, and at 3 o'clock they retired in charge of the marshal.

A little after 4 o'clock the jury returned into court and presented the following verdict:

We, the jury, find the prisoner Thomas H. Ferguson, GUILTY of MURDER in the first degree, as charged in the indictment.

(Signed) Richard Bentley, foreman.

The jury were polled by the court and found to be unanimous in their verdict.

The prisoner was remanded for sentence.

The case of the people vs. Deloss Melvin Gipson, was called up, and the two important witnesses for the prosecution—Luce and Parker being absent, judgment was entered on their recognizances and the case continued until the next regular term of court.

Judge Sinclair made the following remarks to the members of the bar:

Gentlemen of the bar, I have some words to address to you.

This court commenced its session on the last Monday in July, by the last appointment of the United States judges. I have done the best I could to conduct the court in such a manner as would appeal with respect to the community. I have ordered judgment in all cases where no answers were filed before the 12th of September and now, having disposed of the criminal business before the court;—having kept the court open during the past two months, except a recess that I took in order to allow the attorneys time to go down to the other court. I do not know that I am obliged to keep it open until all the disputed civil suits are disposed of, and I shall wind up the business of the court in the morning.

So far as taxing the expenses of the court is concerned, where the jurors have served either the United States or the Territory, certificates of their service will be issued in order that they may get their pay, after the expenses have been properly assessed, to-morrow morning.

I do not know whether, in the providence of God, I may ever sit again in this court. At least one thing I do know, that I have endeavored, in the issue of legal proceedings, to conduct the cases before me without fear, without favor and without affection to any; knowing nothing but the law and the responsibilities with which I was charged; having been sent here by the authority of the United States, to discharge its functions.

I may have erred; who has not? I have held open the door for correction; I have had no personalities, no malignities and, while taking leave of you, it is but justice to say, while I have been under the necessity of calling members of the bar to order in endeavoring to bring them to those forms which are according to the order of the highest courts in the country, that nothing has transpired to cause me to resort to those extraordinary measures that are sometimes led to by perjury, violence and disorder.

Sitting here as I have done, and called to this responsible position without asking for it, I have endeavored to do the best that I could. I take leave of you, so far as the business of this court is concerned, so far as the contested cases are concerned, with somewhat of a feeling of regret; but I do not know that I am called to continue it further. In cases upon the civil docket where witnesses could not be got, aliases have been issued. The criminal docket I have disposed of.

I leave with regret, because, when we become acquainted; there are associations and ties that we do not like to sever; but I have in my own breast my reasons for taking this course.

In thus announcing to you these facts, per-

mit me to say that I leave with the best of feelings towards you and, while I shall deal with public questions as public property and as a public man, there is no man on God's green earth that I have the least personal malignity against.

Court adjourned till to-morrow morning at 10 o'clock.

FRIDAY, 23—10 a.m.

T. S. Williams, Esq., filed a motion for a new trial in case of the people vs. Thomas H. Ferguson, which was overruled by the court.

The prisoner was ordered to stand up, and the judge pronounced the sentence of death upon him in the following language:

After a fair and impartial trial, by a jury of your countrymen, you have been found guilty of murder in the first degree, the punishment of which is DEATH. Have you anything to say why the sentence of death should not be passed upon you?

[Here his honor paused and the prisoner replied to the interrogatory as follows: Nothing, only I should like to get up a petition and see if I can't get reprieved. The judge informed him that that was an after consideration, and then resumed the pronouncing of the sentence.]

It becomes my painful duty to enter the sentence of this court. You have sent a fellow being, with all his sins upon him, into the presence of his God. The safety of life and of property is the foundation of all true government. Government must be sustained or we go into one universal state of wild ruin and disaster.

There is nothing that touches the feelings and senses of persons more than to see a fellow creature in the condition in which you now are, awaiting the sentence of this court. Your situation is unfortunate. Think of the evil you have done, and repent of it.

Few, even in the wild range of mountain life, with all its vicissitudes and exploits, and with all their bravings of death in madness, when they come to know that they have to die, to go down into the grave, but that it induces within them most solemn thoughts. It becomes my duty to tell you to prepare for that solemn change and to prepare to meet your God; for, as I said before, the law must be preserved and magnified.

Men cannot shoot down their fellow beings and the law cease to take its hold or to administer the punishment that the crime deserves. You must have these feelings in your own mind, for there is no man, who is not steel against every good emotion that is in the heart of man, but must feel to regret that he ever warred with a fellow being and took the life of another.

The sentence of this court is, that you be taken hence to the public jail of this county and that, on the 23rd day of October, you be taken to a proper place in this district, to be designated by the proper officer, and there, between the hours of 12 and 1 o'clock, be hung by the neck till you are dead; and may God have mercy on your soul.

John M. Luce and Nephi Packer came forward and were bound in the sum of \$5000 to appear in this court at the next regular term.

The traverse juries were discharged and court took a recess till 4 p.m., at which hour it resumed its session.

Judge Sinclair, having discovered that the 23rd of October would be on Sunday, and not wishing to desecrate the Sabbath with a public execution, ordered the prisoner to be brought into court, and resented him, changing the day of execution to Friday, the 28th of October.

Court adjourned till next term.

J. V. LONG, Reporter.

[From the London Times, Aug. 9.]

## The Great Eastern Completed.

The completion of this magnificent vessel was formally celebrated yesterday, at a banquet on board the ship, which was honored by the presence of many of the members of both Houses and some of the most distinguished engineers and scientific men in the kingdom. During the short interval which has elapsed since our last notice of this noble vessel, the work of her completion has progressed with giant strides, and it is only doing bare justice to Mr. Scott Russell's exertions to say that no other man in the kingdom could have fitted the vessel in the same time, and there were not a few who believed that the task would prove too much even for his energy. Three weeks or so ago and only one or two of the six masts were fixed, the bulwarks had not been quite completed, the hull wanted painting, the decks were piled with indescribable lumber of all kinds, while the labyrinth of cabins and saloons below seemed only so many dirty store-houses for unfinished joinery. Yesterday the scene on board was the reverse of all this, and such progress has been made that the ship now looks as she will look when proceeding to sea, and as she ought to look to keep pace with her reputation as the largest and finest specimen of naval architecture that ever floated. The deck has been plained and scrubbed to man-of-war whiteness, and not even a stray rope-end breaks the wonderful effect produced by its immense expanse. Her fleet of small boats (that is to say, about the size of sailing cutters) hang on the davits, ten on each side. The whole vessel has been painted, the saloons are finished, the cabins decorated, and even finished. The masts are fixed and rigged with the exception of the yards, which will be sent up in a day or two. The three center square-rigged masts are of iron. They were made by Mr. Finch, of Chepstow, and are the finest specimens of masts of the kind that were ever manufactured. Each is made of hollow

wrought iron in eight-foot lengths, strengthened inside by diaphragms of the same material. Between the joints as they were bolted together, was placed a pad of vulcanized india rubber, which gives a spring or buoyancy to the whole spar greater than wood, while at the same time retaining all the strength of the iron. The breaking strain of the six shrouds to each of these masts is over 300 tons, which gives ample security for the masts being properly supported, as the weight of each is only 22 tons. On deck are four small steam winches or engines, each of which works a pair of cranes on both sides of the vessel. Anything more simple or more perfect than the double mechanism by which these are made to work at both sides, can hardly be conceived, and the value of the invention may be estimated when we say that with these four double cranes alone 5,000 tons of coal can be hoisted into the vessel in 24 hours. Thus the grave objections of those who speculated on the loss of time required to coal the Great Ship are entirely done away with. The chief saloons—all save one—have only been fitted to a certain extent in a temporary manner. The fittings are exceedingly handsome and substantial, but the decorations of the huge iron walls and girders have been reserved till after her first trip, and now are only painted white. The absence of elaborate decoration in them, however, is amply compensated in the chief saloon, which has been finished to show the superb style in which the whole will be decorated when the Great Eastern begins running to the East.—On this saloon, Mr. Crace has lavished his utmost efforts, and the result is a combination of taste and richness to an extent which is really astonishing. Whether the fine traceries of gold and color are examined in detail, or whether one chooses to judge by the tone and effect of the whole apartment, the decision is equally favorable, and this saloon is not only the finest and richest of any that has yet been attempted, but is likely to remain for many years the standard by which all other cabins of the kind will be judged. It is said that the mirrors, gilding, carpeting and silk curtains for this apartment alone cost £3,000. In the berths, of course, no attempt is made at costly decoration of this kind, though the fittings are good and sufficiently luxurious. The berths are arranged in three classes—those for parties of six or eight, and these are large rooms—those for parties of four, and the rest in the usual style of double cabins. All are very roomy as cabins go—very lofty, well lit, and those on the outer sides exceedingly well ventilated. On the lower deck the berths are even larger, loftier and more commodious than those in the upper. Both the berths and saloons here are in fact, almost unnecessarily high, having very nearly 15 feet in the clear. The kitchens, pantries and sculleries are all on the same extensive scale, and fitted with all the large culinary requisites of first-class hotels. The ice-house holds upward of 100 tons of ice, and the lofty wine-vaults—for such, in fact, they are—already contain wine enough to form a good freight for an Oporto trader.

Steam was got up in the paddle engines at 11-2. At that time all the visitors were on board, and the engine-room and hatches, in spite of the heat, were crowded with eager lookers-on. Among these were the Marquis of Westminster, the Earl of Shrewsbury, Lord Churston, the Earl of Ellesmere, Lord Stanley, M.P., Lord Redesdale, the Marquis of Stafford, M.P., Viscount Canterbury, Lord Adolphus Vasse Tempest, M.P., Sir John Bowring, the Lord Advocate of Scotland, the Right Hon. W. Napier, M.P., Sir Joshua Paxton, M.P., Mr. Bright, M.P., Lieutenant-Colonel, the Hon. Cecil Forester, M.P., Mr. Ayrton, M.P., the Hon. H. F. Berkeley, M.P., the Right Hon. H. S. Walpole, M.P., Mr. Jackson, M.P., Sir Charles Napier, M.P., Col. Sykes, M.P., the Right Hon. W. Cowper, M.P., Mr. Herbert Ingram, M.P., Mr. J. Brady, M.P., the Right Hon. the Lord Mayor, Mr. Ald. Rose, Sir J. V. Shelley, M.P., Sir De Lacy Evans, M.P., Sir John Rennie, Sir Richard Bethell, M.P., Mr. Locke, M.P., Mr. J. F. Maguire, M.P., Mr. Hennessey, M.P., Mr. Penn, Mr. Whitworth, Mr. J. Locke, Mr. Yates (Secretary of the old company), Mr. Brereton, Sir S. M. Peto, M.P., Mr. L. S. Magnus, Mr. Rose (Solicitor-General for Canada), Mr. Robert Stephenson, M.P., Messrs. Boulton and Watt, Mr. J. W. Bazalgette, &c. Mr. Brunel, to the regret of all, was prevented by indisposition from being present and sharing the festivities which marked the successful completion of his grand idea. He was, however, represented by Mr. Jacob, who has, for him, watched and superintended the building and completion of the ship from first to last.

The first movement of the gigantic cranks and cylinders of the paddle engines was made precisely at half-past 1, when the great masses slowly rose and fell as noiselessly as the engines of a Greenwich boat, but exerting in their great revolutions what seemed to be an almost irresistible power. There was no noise, no vibration, nor the slightest sign of heating, and the tremendous frame of ironwork sprang at once into life and motion with as much—as if every rod and crank had been worked for the last ten years. The steam in the boilers was about 21 lb., but, as a matter of course, the engines were turned but slowly, never exceeding six revolutions per minute. Even with this slow motion and the slight immersion of the paddle-floats the effect of the enormous power was at once visible upon the ship. The great mooring chains astern were tightened to the utmost, and it seemed as if even Trotman's anchors themselves would yield under the strain. Fortunately, however, these

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