ing to bear up, it is not difficult to see that he is feeling his position very acutely. He is handcuffed immed - ately after the Court rises, and the crowd that awaits in the immediate vicinity of th- Court house to witness his removal must be the reverse of soothing to his feelings.

When we went to press last evening, our report finished with the evidence of Mr. Campbell. We now produce the remainder of the proceedings up to the adjournment of the Court at half-past four o'clock.

Hector S. Wisner, sworn, said: I know the defendant; first saw him a year ago last August at Provo; knew John W. Turner, and once saw John F. Turner; Welcome bought of me a pair of sleeve buttons; he said that J. F. Turner h d bought his saddle, horse and revolver—a six-shooter—and had not paid for them as he agreed to; Welcome said, "By G——, I'll kill him if it is ten years from now; I'll follow him to his grave."

Cross examination: I first saw the defendant at Turner's house; we were pretty intimate for about six weeks; the conversation occurred twice while we were in jail; he was at work most of the time, and not confined to the jail; I never told it to anyone, except my wife, and that's how it got out; I was no friend of Mr. Turner's; he had me in custody and used me as a gentleman; there is no unkind feeling between me and Welcome; we had a little difficulty one day, but I would do as much for him as any m n to-day; I never told one of the guards up at the Penitentiary that I would be revenged on Welcome for giving me away; because he never did give me away.

Question—Did you ever make such a statement to a man named. Driscoll? Answer—No, sir.

Q.—Is not there a man there by that name? A.—There is a thing that has the shape of a man, who is a guard, but he is no man; if I had made such a remark, it would have been to a gentleman, and not to such a thing as that.

Sheriff Allison recalled, testified to having arrested the defendant on the platform of the Union Pacific at Cheyenne. He was put in jail that evening. Next morning they left Cheyenne for Salt Lake City; during the journey the defendant made a voluntary confession.

Mr. Sharp objected to this confession being made public, on the ground that it might have been given under excitement. The court overruled the objection.

The witness continued and said: After we had taken our seats in the train we began talking; I asked the defendant how he came to kill the boy. "Well," says he, "I will tell you. I was arrested once in Provo on a charge and I got clear of that. I got into a little more trouble, and Johnny was the cause of the re-arrest. I concluded that I would get even with the Turner family. Well, said I, did you kill the boy? The defendant answered, "No; I did not. It was this way: Johnny and I had arranged to go to Montana, and Emerson wanted to go with us. I said it was just as Johnny said. We went to camp and Johnny said he did not care, if Emerson would do his share in looking after the horses and working. When we went over to the camp on the night of the 3d of July, Emerson and Johnny got into some words about driving a team. They seemed to disagree and Emerson came over to me and said, Johnny does not want to go where we want him to; and he said if he does not we'll kill the son of a b—h. He went back to Johnny and I heard a couple of dull heavy blows and Emerson came running up to the wagon and said, I have done it. I said, done what. He said, killed Johnny. Well, says I, it is a d—n bad job. Emerson says: Well, it is no use kicking about it now; its done and we've got to make the best of it. We then went over to where Johnny was lying; we placed him in the tent, put him in the wagon, and covered him over with grain sacks; when that was done I said: Well, I cannot sleep here, I have got to go down town; so they both went down that night and had more drink, and Welcome says he kept drinking right along until they left. He said they started out with the body on the morning of the 6th. They took the body to Echo Canyon and there left it. They camped, the defendant told me, within seven or eight miles from the mouth. Witness remembered the day they passed the place in the train. The defendant looked out of the window, and seemed confused.

Sheriff Turner was recalled and testified that his son had informed him about Welcome, which caused his second arrest; I have frequently seen Welcome use his left hand in pitching hay and both in chopping wood, but mostly his left

S. Allred, recalled, testified that Welcome was left-handed, and that he had seen him use an axe like a left-handed person In an answer in the cross-examination, he testified that he had never seen Welcome chop with an axe right-handed.

T. Jeff Carr was next sworn: I live at Cheyenne. I am at present city marshal at Cheyenne. I was acting in the capacity of a detective when defendant was arrested. I saw the defendant several days before the 23d of July, the day he was arrested; the arrest took place on the platform of the Union Pacific depot at Cheyenne; Sheriff Turner was standing close by when the arrest took place. After the arrest we took defendant to the City Jail. I had several conversations with him. Prior to any statement he made to me concerning this case, no inducements were held out to him to say anything, nor were there any threats made one way or another; anything he said to me was voluntary. The first statement was made immediately after his arrest; in fact part of it before he got to the jail; he first said he thought he would swing for what he had done; I asked him what he had done; he said that he had killed Mr. Turner's son; I do not remember whether he told us the exact place where the body was put, but said it was west of Echo somewhere; I asked his reasons for killing the boy, and he said that Mr. Turner had had him in jail for some crime, and that he had not treated him properly—had worked him without allowing him anything for it. He said he was broke, and thought this would be a good way of getting even with the family and making a raise. I next had some conversation with him the same afternoon. He claimed, the second time he spoke of the affair, that he had not done it all himself; but he had a partner named Emerson, and that Emerson killed him. He admitted that he was as guilty as if he had done it himself, as he stood by and saw it done and shared in the spoils. That is about the main substance so far as I can remember it. The cross-examination did not elicit anything new.

At this stage of the proceedings, Mr. Van Zile said that this finished the case for the prosecution. An adjournment was thereupon taken until 7 o'clock in the evenining.

EVENING SESSION.

What transpired in the evening will be found embodied in the introduction to this report.

SATURDAY, Feb. 19, 1881.

Agreeable to adjournment, the court met this morning at 10 o'clock. Court-room crowded.

The jury having answered to their names, Asistant-Prosecuting Attorney James H. Beatty rose to address the jury. There were none of them, he said, who were anxious to take part in a trial of this kind. It was a duty they would like to slide from their shoulders to those of some one else. But they were not responsible for the law; they were not responsible for the facts; they were not responsible for the tragedy which had been performed. The law, whether right or wrong, had to be enforced. For one he believed the law to be right. He believed that where a man deliberately, as the law said, took the life of another man, his life in turn should be forfeited. He need not go back to the divine law as authority for that; he simply for the present spoke of the human law, and he believed it was founded on right. He did not believe in it as a law of vengeance, for he did not think that was the design of the law, which was rather for the protection of society, for the protection of life, and for the punishment of wrong. It was therefore for their interest, for his interest, for the interest of their families and of the community at large, that this law was in existense; for they knew by observation that there were, unfortunately, human beings in the world who were only restrained from evil deeds by the fear of the law, and the greater the punishment the greater was the restraint. He believed—and he stated his belief with all the earnestness he had—that such a law was the only one that would prevent certain classes of men from taking the lives of their fellow beings on the slightest provocation, or even without any provocation at all. Hence, while he might dislike to have any part in the enforcement of such a law, yet he believed it was only just and right, and one that must be enforced. He was aware that the jury had been in close confinement for several days. Under those circumstances he did not feel like detaining them a great while in going over the case. As the jury were aware, there was no evidence in this case except what the prosecution had placed before them. That also would suggest that it would be unnecessary to consume a great deal of time in this case. It was one of that kind of cases, however, where the evidence was of the nature known as circumstantial, save the admissions of the defendant himself. It was believed by some upon first view, that circumstantial evidence was not so strong as other evidence. Yet circumstantial evidence, Mr. Beatty continued, might, at times, be stronger than direct evidence. At all events the prosecution relied—save the admissions of the defendant—upon circumstantial evidence.

The deed was not performed in the day time. It was performed in the night, in the darkness, that fit companion for evil deeds. It was done when men had generally gathered themselves to their homes, seeking night's repose, and had gone from the struggles of the day. There was nobody about when the deed was performed, and it would have been mere accident if there had been—it would have been mere accident if they had brought before them witnesses who had seen the life of Johnny Turner at once dashed out. But the witnesses were those who had placed before them circumstances, a chain of circumstances, the links of which were so strong that it semed to him nothing that could be set up on the part of the defendant could break that chain. As he had said before, circumstantial evidence was sometimes stronger than the evidence of eye-witnesses; for they knew that men, even though they might be eye-witnesses were liable not to see and comprehend alike. But when they had a chain of circumstances, a chain of items pointing to certain conclusions, there was nothing that could break that chain or that conclusion.

Before he proceeded to review the evidence of this case, Mr. Beatty said he desired to direct the attention of the jury to the law covering this case, he deemed it unnecessary to read the law, as he believed the jury heard it read when Mr. Van Zile made the opening statement in the case. The prosecution under this law, claimed that there could be only one offence—it was murder in the first degree, or it was nothing. The prosecution asked nothing else than a verdict of murder in the first degree. The prosecution asked this verdict because this case was that deliberate killing without provocation which the law termed murder in the first degree. If there was a murder at all, it must have been deliberate.

Mr. Beatty then proceeded at considerable length to review the evidence which had been adduced in the case, and bore great stess on the confession made by defendant as testified by George P. Campbell, of Green River, Sheriff Allison, of Cheyenne, and T. Jeff Carr, also of Cheyenne. He concluded his address by stating that he had gone hurriedly over the evidence and had called the attention of the jury to the prominent points in the case. It seemed to him, however, almost useless to make an argument when there was nothing to dispute. The testimony seemed to him, in every view of the case—taking the confessions of the defendant and the evidence as circumstantial—to be sufficient to point to the defendant as guilty. What was there to dispute? Nothing. If there was any evidence to explain the case, if there was any explanation to it, the defendant ought to have explained. He had attempted no explanation. This deed had been committed only about 20 miles from this city, and if there had been any witnesses to produce they could easily have been procured. Not a witness, however, had been placed on the stand; they had simply the testimony of the prosecution uncontradicted, undenied. Under these circumstances there seemed to Mr. Beatty but one verdict for the jury to bring in, and that was, that the defendant was guilty, as charged, of murder in the first degree.

Mr. Sharp then arose to address the jury on behalf of the defendant. He said he regretted that the responsibility of presenting this case devolved alone upon him. Yet it was a duty he had to perform, having been assigned to the defense in this case by the court. In performing that duty he proposed to deal fairly with the testimony. If he misquoted, the jury would understand it was a mistake. He reminded the jury that they were not trying a civil case. In a civil case a jury was required to decide upon the preponderance of testimony alone. If the testimony was in favor of the plaintiff, then the jury must so decide the case; if the preponderance of evidence was in favor of the defendant, then the jury must decide for the other side in the same way. But in this case the law required that the jury be convinced beyond any reasonable doubt, convinced to a moral certainty that the defendant committed the crime with which he is charged. The law required in this case—the evidence being circumstantial—that the jury in considering the testimony, if they had any doubt in their minds, as to who committed the crime—whether it was the defendant or some other person—then the defendant was entitled to the benefit of that doubt. That was the law, and the jury must confine themselves to the law The jury were the keepers of their own consciences; they were alone responsible for the oath they had taken.

Mr. Sharp then proceeded to direct the attention of the jury to the law on the subject, and reminded them that their oath required them to take into consideration all the facts and circumstances of the case; that they must examine and weigh every circumstance and apply the same to the law as it would be laid down by the court. Then, having done this, if the jury had an abiding faith of the defendant's guilt, if they were convinced to a moral certainty that the defendant and no other person committed the crime, then it was the duty of the jury to bring in a verdict of guilty. On the contrary, if they were not convinced to a moral certainty that the defendant did commit this crime, that it might have been committed by some one else, then it was the duty of the jury to acquit the defendant.

Mr. Sharp next went on to give a definition of murder. He admitted that a murder had been committed. He sympathized with the bereaved family and friends of the deceased. Yet while he sympathized with them, and would not on this occasion say a word to re-open the wound—nevertheless he was bound to remind the jury that his unfortunate client, whose case had been placed in his hands, had rights which must be preserved. Though poor and friendless, no friend to extend to him the hand of sympathy, no means to prepare his defence, yet he had the same rights as a millionaire before the jury. The law of the land gave protection to rich and poor, high and low. Mr. Sharp then went on to review the testimony, and contended at the outset that a verdict of guilty could not be brought in upon it. The entire evidence was circumstantial. As for the supposed confessions, he reminded the jury that confessions so called were often the weakest of testimony. Many an innocent man had lost his life through circumstantial evidence, it afterwards having been discovered that he was innocent. He related two instances of this kind.

He asked the jury to take into consideration the whole conduct of the defendant from beginning to end, and asked of any sane man would have acted as the prosecution had tried to make out he had done? Would he have committed a murder near a public road, close to the city, where persons were constantly passing to and fro—would he have murdered this man, put him in a wagon, and then gone deliberately into town with blood on his shirt and exhibited his shirt to several persons—would any sane man act thus? Would he have driven down a stage road with a dead body in the wagon? Would he have carried the axe with blood stains on it? Would he have carried all the evidences of guilt along with him? Mr. Sharp thought not. In fact the whole evidence and circumstances as laid down by the prosecution pointed more to the defendant being a crazy man and an idiot than to his having committed this crime. If he had sense to commit the crime, he certainly would have had sense also not to confess to the crime.

Mr. Sharp ridiculed the threats which it had been said the defendant had made with regard to the deceased and the Turner family in general, and contended in conclusion that there was no evidence before the jury such as the law demanded, whereby a verdict of guilty could be returned. He must, however, leave the case in the hands of the jury. His client was there before them unrepresented. He had no friends here; he had no means. He had been confined in the penitentiary ever since his arrest; he had been unable to prepare his defence for this trial; he was before them resting upon the testimony of the prosecution; he had been unable to get certain witnesses he desired to produce. Under all these cirumstances, Mr. Sharp claimed that the testimony—circumstantial as it was entirely—was not sufficient to warrant the jury in bringing in a verdict of guilty.

Court then adjourned until two o'clock.

AFTERNOON, 2 p.m.

On the re-assembling of the court at this hour, Judge Van Zile rose to reply on behalf of the prosecution. He commenced by making an eloquent appeal to the jury on the relative merits of the duty they had to perform towards the defendant at the bar, to the public at large, and to the people of Utah Territory in particular. He then proceeded to state that the theory of defence as laid down by Mr. Sharp was utterly inexplicable to him. No evidence had been produced before the cou t to warrant the position they had assumed. They had tried to make out that drunkenness had had something to do with the case, and had entered a plea which amounted to a plea of insanity on the part of the defendant. Even though drink had been the case, which Mr. Van Zile did not admit, because the evidence went to show that drunkenness did not commence until after the murder was committed—such a plea could not be recognized by the law, and as for the plea of insanity it was entirely untenable. No witness had been placed on the stand to support such an argument. The Attorney next proceeded to lay before the jury a review of the evidence which had been presented to them, and with reference to the question propounded by Mr. Sharp as to whether any sane man would have kept the body—as proved to have been kept, by the prosecution—stored away under the grain sacks from Saturday night until Sunday morning, what, asked Judge Van Zile, could he have done with the body? Would they have buried it? There would have been the fresh grave. Would they have burned it? If they had, there would have been the spot where it was burned. Would they have hid it away? That was what the defendant undertook to do; and if such an act argued anything, it argued sanity; it proved method, a deep-laid scheme for the disposal of the body. The plea of insanity was therefore absurd.

[Mr. Van Zile was speaking when we went to press.]
