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BOOK IV
TRIAL OF
CHAMP FERGUSON
FROM THE 3rd OF AUGUST TO THE 7th OF AUGUST, INC, 1865
FOR PROSECUTION

Nashville, Tenn., Aug. 3rd, 1865

The commission met pursuant to adjournment

Present

All the members of the commission also the

Judge Advocate

And

Champ Ferguson, the prisoner.

The presiding officer of the commission announced the following decision on the question under consideration on yesterday's adjournment:--

"The evidence sought to be elicited the question on behalf of the Government is that which would arise from the declarations of some of the participants in the offence, such declarations are evidence if so connected with the transaction as to be 'Res Gestae'. But, if in this case we are of opinion that the ground work has not been sufficiently laid by the prosecution; that the declaration do not clearly appear to be contemporaneous with the transaction, or so connected with the transaction, as to render them admissible as evidence."

Ques. by Judge Advocate. What places did you go on that trip? State all the places you went to and what you did.

Ans.-- The first place we stopped was at Eagle Creek, waiting for Ferguson to come up, then beyond Rome's Mill where these men were killed, then at the house of an old gentleman said to be named Henry Johnson; but can't tell how far it was from the Mill, but not far, this house was not far from where those men were killed, and the prisoner was present there at that time. We came up to Johnson before we went to his house Capt. McHenry, Ferguson, myself and two or three others were along at the time. The prisoner (Ferguson) had a conversation with Johnson at which time Ferguson

had his pistol pointed at him and told him, if he didnot bring back his wagon and oxen he would kill him, and the old man promised to have them sent back, stating that he didn't have anything to do with it, that he could not help property being sold at his house.

The reader will see that the reasonable inference here drawn is, that Champ Furguson's wagon and oxen had been sold for debt during his absence, and that Johnson had them in his possession legally and therefore incurred the displeasure of the gentleman aforesaid, Mr. Furguson, who acting upon the principles that has always characterized his eventful career, endeavored to dispossess the man Johnson of his property by this "Modus Operandi".

Ques.-- Did you see any property in possession of any one of the party, such as horses or mules? if so, who had it, what was it and to whom did it belong?

Ans.-- As we came out from Albany the prisoner had a little mule; but don't know to whom it belonged.

Ques.-- At the time the man was shot and stabbed, whose name you give as Zachery, what was said by the prisoner, or any one else in his hearings, before the man was shot?

Ans.-- I don't recollect anything that was said more than I heard stated.

Ques.-- You speak of seeing others dead bodies near Johnson's, can you describe the wounds on others beside Martin?

Ans.-- I can not.

Ques.-- Give the name of those who were along, and to what band they belonged and whether any were along who did not belong to any organization. If so state who they were?

Ans.-- Those who belonged to the same company with me as far as I can state were Capt. McHenry, my brother Alvin Copps, Baliew Gist,

Sam Weaver, Alvin Cullum Jr., Lafayette Goodbar, Porter Goodbar, James McMillen, John Stone and John Dougherty--I can't call other to mind now Col. Hamilton was along, I think he was a captain then, probably a regular Captain then--don't know whether he was a commission or not--I don't recollect how many men he claimed; but I recollect one or two of the Mayfields whose first name I don't know, also a man named Masters--the Mayfields were said to be nephews of Hamiltons, and I am not positive that the defendant had more than one man that went with him, and his name was Ike Smith. Of citizens who were along belonging to neither band were Alvin Cullum Sen., Henry Cox, A. J. Goodbar and if there were any others I don't recollect it.

Ques.-- Were any of these citizens at Goodpastures the day before the expedition started?

Ans.-- I don't think they were, they might have been. I can't state positively. My recollection is they were not.

Ques.-- Had not these citizens horses and other property stolen from them? and were they not along for the purpose of recapturing their property.

Ans.-- Cullum got a horse belonging to his son at Johnsons. I only know of them losing property from information.

Ques.-- What were those men, Martin and others engaged in and what did they have at the time they were killed?

Ans.-- All I can state about that is merely from hear say.

Ques.-- Were they not engaged in stealing the property of citizens and carrying it off at the time?

Ans.-- I can't state only upon information.

Ques.-- What was their general reputation in this respect?

Objected to by the Judge Advocate, who says:--

The general character of a murdered man for violence and as a

dangerous may be given to justify or mitigate the slaying of him. But whoever heard of his general character for dishonesty being set up in such a manner?

Objection Sustained

Ques.-- You will state what was the general character of those men as to violence and being dangerous and murderous men, or for peace and good order?

Ans.-- I knew the men before the war--Stone and Martin--then they were regarded as peaceable and quiet men. I was not acquainted with their character after the war; but heard them spoken of after their death and what they were doing while we were absent at Decatur, Ala., before their death. I never heard much said about them after their death.

Judge Advocate objects to witness stating general reputation on the ground that his own answer shows that he can not know the general reputation.

Objection Sustained.

Ques.-- Did you see a lot of hogs or other property on this trip, that were taken by these men? State what you know of your own knowledge.

Ans.-- Of my own knowledge I don't know anything about it.

Ques.-- You will state who was at the head of and in command of this expedition?

Ans.-- Capt. J. W. McHenry.

Ques.-- On that expedition and particularly at Spring Creek, where the man was killed in the night, that you speak of, did the men anticipate a night attack? and what were the precautions used by the commander, and the orders given to the front guard of which you and Ferguson composed a part?

Ans.-- My information was that McHenry rather anticipated an attack, at least apprehensive, and gave very strict orders, I don't remember now what the orders were.

Ques.-- Do you not recollect that the orders were to shoot down any one in the night who approached the colum or was seen prowling about.

Ans.-- I don't recollect of any such orders before the killing of Zachery, and after the killing of Zachery, I know I didn't receive any such orders. After the killing of Zachery McHenry and Furguson consulted together, but I don't know what was said between them; but I know there was no orders come to me to shoot down a man without halting him.

Ques.-- This man that was killed that night did he not come out of the ivy bushes and approach the head of the colum with a gun on his shoulder at the time he was shot?

Ans.-- He came out of the ivy bushes meeting the colum, he came right up to the head of the colum and a conversation ensued between him and Furguson, and think he had a gun, as I saw one afterwards that Furguson or one of the men had that was said to have belonged to the man who was killed.

Ques.-- Was this man in the road, and did he make any explanation why he was there, or did he say that he was a citizen and meant no harm to the command?

Ans.-- My recollection is that it was rather a little field we were in a clear place--I don't think the boy got into the road or those in front of the colum either--I heard him and Furguson talking, Furguson asked him his name and he replied Zachery, that is about all the conversation that I recollect of hearing.

Ques.-- You say that Furguson remained behind talking to old man Johnson about getting his stock back that had been taken, and the command moved on, how long was it after that that Martin and those other

men were killed?

Ans.-- I didn't state that any command moved on, myself, Furguson, Beliew Gist, Capt. McHenry and Judge Cullum were there talking to Old man Johnson. If the command moved on I don't reccollect it. Furguson talked to Johnson and the rest of us stood there and listened, and about half an hour after, Martin was killed.

Ques.-- Do you not remember that Col. Hamilton with some of the men went on and left Furguson talking to old man Johnson about his stock.

Ans.-- They may have passed and me not seen them, for my attention was called to the conversation of old man Johnson and Furguson.

Ques.-- How many men were in the front guard the night that Zachery was killed, and how far were they ahead of the main colum?

Ans.-- Furguson was at the head of the colum, and met the man we were just at the head of the main body and they were strung along behind. We were not acting as videtts.

Ques.-- Do you not reccollect that the colum stopped at the Widow Owen's just previous to approaching the creek and a front guard was thrown out with strict orders on the part of McHenry, the commander an attack being expected on the march.

Ans.-- I remember nothing about a guard being thrown out. If there was a guard thrown out I was not one of it. There were some orders given after Zachery was killed but I don't know what they were.

Ques.-- Was the defendant a commissioned officer of the Confederate States, and do you know of his acting as captain of such?

Objected to by Judge Advocate who said:--

The question is leading. The accused announces that they here intend to make the witness their own for the purpose of proving substantive matter of defence.

Objection Sustained.

Ques.-- You will state if you were present at any time when the defendant

was raising his company. If so, by what authority did he raise his company? You will state if the was organized? Who were elected its officers and in what capacity did the Defendant act from the time of raising the company? Did you ever see his commission on authority for raising ~~for raising~~ his Company? If so state it, as well as the time and place.

Ans.-- I was present when Furguson was raising his company on one occasion it was after this expedition I have spoken of--I was then out of the service. I can't give the date exactly, but it was some months after the expedition into Kentucky which was as I have said in April 1862. He was raising his company in Livingston, Tenn., and I saw him endeavoring to get men to subscribe a paper for raising his company. I asked him to show me his authority, and he showed me a paper of writing, as I understood it from the secretary of War of the Confederate States authorizing him to raise a company of cavalry. I heard of the election of the Officer of the Company, and my understanding was that Champ Furguson was elected Captain, Henry Sublitz 1st. Lt. and Andy Foster 2nd Lt. I can't state how many men composed the company, there were probably 50 or 60 men present. I don't think at the time they organized they had a full company. I don't think I saw him after that as he had then, I saw him afterwards when he was said to have been acting as Capt. of the company.

Ques.-- At what time did Captain Scott Bledsoe raise his company? was it before the expedition to Kentucky?

Ans.-- He raised his company before.

Ques.-- To whose company was Furguson attached at the time of that expedition into Kentucky?

Ans.-- I don't know that he belonged to any.

Ques.-- Did he not belong to Captain Scott Bledsoe's Company?

Ans.-- I don't know that he did.

Ques.-- Did you ever see him acting with Bledsoe's Company?

Ans.-- It seems to me that I have; but at what time I can't say, whether before or after the expedition into Kentucky. My best impression is that it was after that expedition. Bledsoe's Company was with us at Decatur and came back with us and Furguson was not with it then. It is probable that I have seen him with the company before that expedition.

Ques.-- On that expedition into Kentucky to whose company did you understand he was attached?

Ans.-- I stated that I didn't understand that he belonged to any.

Ques.-- What was the object of that expedition into Kentucky?

Ans.-- I can't say that I fully understood it. The information that we had was that there had been independent companies in Overton County taking off property and understood the object to be to look after that.

Ques.-- Who was at the head of those independent companies you speak of?

Ans.-- I don't know only from information, just the report of the country, I never saw none of them. I understood that Capt. Beaty, and probably a man named Dutton or Wood, that's all I know about it, it all occurred while we were absent.

The commission adjourned to meet at 8 a.m. August 4th, 1865.

Nashville, Tenn., Aug. 4, 1863

The Commission met pursuant to adjournment,

Present

All the members of the Commission the Judge Advocate and Champ Furguson the prisoner.

Examination of A. J. Capps, resumed

Reexamined.

Ques. by Judge Advocate. What was the date of the paper you speak of purporting to authorize Furguson to raise a company?

Ans.-- I don't remember.

Ques.-- Was it written or printed or partly both?

Ans.-- I don't remember about that.

Ques.-- Was it signed by the secretary of War in person, or by someone else by his order.

Ans.-- I don't remember distinctly about in anyway.

Ques.-- Do you know whether the words Secretary of War proceeded or followed the signature?

Ans.-- No sir, I read it hastily.

Ques.-- Do you remember the name of the Secretary of War, being connected with that paper at all? If so, what was his name?

Ans.-- I do not, but that is my impression, that it mentioned the name of the Secretary of War.

Ques.-- Did it direct him to report to any one for the muster in of his men? If so, to whom? and when was he to report?

Ans.-- I don't think it did.

Ques.-- Did he state to whom he should apply for commissions for himself and other officers after his company was organized? If so, to whom was he to apply?

Ans.-- I don't remember about it.

Ques.-- Do you know whether in fact his company ever was mustered into service, or whether the persons you speak of as having been elected officers, ever were commissioned?

Ans.-- No sir, I do not.

Ques.-- Can you give any of the language, or the substance of the language used in that paper? If so, give it. By that I mean what was said not your best impressions of what the object of the paper was.

Ans.-- I can not only it was directed to Champ Furguson.

Ques.-- Was it directed to Champ Furguson on the outside, or at the head of the paper or at the left hand lower margin of the paper?

Ans.-- It was on the outside on a large envelope and I can't say about the inside.

Ques.-- Then you can't state that the paper said anything about Champ Furguson, and all you know about that is, what was on the envelope that contained the paper?

Ans.-- Upon reflection my best impression is that his name was within the body of the paper.

Ques.-- If you can't tell the date of that paper, nor who signed it, nor whether it was signed by the Secretary of War, nor the name of the Secretary of War, and don't know who the Secretary of War was, how can you state that the paper purported to be from the Sec. of War.

Ans.-- I stated that it was my recollection, or do now, that it was signed by the Secretary of War.

Ans.-- But you say you don't remember whether the secretary of war preceeded or followed the signature, nor the name nor whether it was signed by the Secretary of War, or someone else by his order. How then did the Secretary of War sign it?

Ans.-- Well, I don't know.

Question and Answer objected, by the accused.

Ques. by J. A. You said in your first cross examination that Martin was killed a short time, perhaps an hour, after you and others were talking to old Mr. Johnson concerning stock. You will now state how you knew when Martin was killed.

Ans.-- Myself and Capt. McHenry, Bellieu Gist and one or two others, went to the right of what was said to be Johnson's house, Furguson, Hamilton and others went on. We heard some guns firing,

and saw a man come running, who was repeatedly ordered to halt and finally run over a bluff, I didn't see him fallover, but saw him before he got to the bluff, but saw him lying there after he had fallen over the bluff, some 40 or 50 feet high. Myself and other men I spoke of went to the house and in going to the house I passed this man Martin, my attention was called to him by one of the party, Martin lay some 200 or 300 yards from Johnson's house, I didn't examine the man who fell over the bluff. Martin was shot in the head and had a gash in his breast. We heard the guns fire and in a short time saw Martin and he seemed to be just killed. I saw one man shoot at the man who went over the bluff, I think it was shot by a man named Masters, one of Hamilton's men; but I don't think he hit him, a man by the name of Ike Smith went down and examined the man that fell over the bluff, and I think, shot him, Smith went with the defendant generally. We found the gun the man had before he run over the bluff, it was a regular army gun, he dropped it before he went over the bluff.

Ques.-- How near did Martin lay to the man that fell over the bluff, and how near was Martin's body to where you were when the man fell ober the bluff?

Ans.-- Martin lay out of sight, my opinion would be that it was 200 or 300 yards from the man that fell over the bluff, maybe 400 yards--I was between Martin's body and the man that fell over the bluff and about 250 yards from where we found the body of Martin. I was between the two bodies it may have been $\frac{1}{2}$ of a mile from where I was to where Martin's body lay, and both bodies were out of my sight at the time of the shooting. From the report of the guns and the fact of the men going there on that business or rather the fact I saw a portion of the band rushing up to the

house, rushing up in that direction and the fact that we had some information before that of some men being ahead of us, some soldiers I might say, I don't know how the information came, and the guns I heard fire were in the direction of where the body of Martin was found. I heard only a few shots, not many.

Ques.-- Was there any seal attached to Furguson's permit to raise a company?

Ans.-- I don't remember how that was.

Ques.-- Did you regard this as a genuine permit at the time from your reading it?

Ans.-- Yes sir.

Miss Elizabeth Wood, a witness for the prosecution having been sworn testified as follows:--

Ques by Judge Advocate, Are you the daughter of the late Ruben Wood of Clinton, County, Kentucky?

Ans.-- Yes sir.

Ques.-- Is your father dead or alive? If dead, when did he die?

Ans.-- He is dead. He died December the 4th, 1861.

Ques.-- If before his death he recieved, any injury state how long before his death? from whom that injury was recieved and the nature of the injury. State all the circumstances attending the recieving the injury.

Ans.-- My father was shot at home near Albany, Clinton County, Kentucky, on Monday evening December 2nd, 1861 about sunset. I heard some persons coming up the road whooping and hollowing as if they were driving stock. I opened the door and looked out and saw Champ Furguson, Raney Filpot and another man whose name, I think, was Kincaid coming up the road driving some hogs, when I opened the door they were just coming in sight of the house, father was coming down the road meeting them, when Furguson, in a very

abrupt manner, ordered him to get out of the road, father got out of the road as soon as he could and went to the house and was just in the act of opening the door when Furguson and Filpot rode up to the fence and ordered him to come there, father turned then and went to the fence where they were, Furguson asked him how he came on and the unusual compliments were passed. Furguson then calling father by name said "I suppose you have been to Comp. Dick Robinson". Father answered, I have, Furguson then asked him what his business was there, and before father could answer, Furguson using violent and bittler language told him nobody but a d----d old Lincolnite would be caught at any such place, he still continued using violent language which I cannot express. Furguson then drew his pistol and said "don't you beg nor don't you dodge". Mother was standing in the door with me and begged him not to shoot him, I also begged for the love of God for them not to shoot my father, Father said, "Why Champ I have nursed you, has there ever been any misunderstanding between us?" "No" said Champ, "Ruben you have always treated me like a gentleman but you have been to Camp Dick Robinson and I intend to kill you". Furguson then shot father; but he didn't fall, he shot again and missed him. Father drew his coat around him as he walked around him as he walked around the end of the house and entered the back door. The first shot hit my father on the left side below the nipple in the region of the pit of the stomach Furguson jumped off his horse and went round the other end of the house. Mother and myself went to hunt for father, and met Furguson with his pistol in his hand ready to shoot. Furguson said, "Where is he? Where is he?" We told him we didn't know. We begged him not to shoot any more; but he paid no attention to us and went on into the room where father was. I heard another

shot and chairs falling over and a desperate noise in the room. Mother and myself screamed as loud as we could and alarmed the neighborhood. We then went to Widow Nolands about 600 yards from our house, we returned in a short time and found father sitting by the fire. We begged him to lie down. He said no, I can not lie down, as you were not present, untill I relate the circumstances, and I think he said there will be some hereafter about this they can not go on in this way. He said "I am bound to die". and I want you to know just how it was. I am positive he said he was bound to die.

Ques.-- Were you with your father from that time untill his death?

Ans.-- Yes sir.

Ques.-- State whether he at any other time prior to his death said whether he thought he would or would not recover, and what he said about recovering? and how often he spoke of it?

Ans.-- Every person who came in and said anything to him he told them he was bound to die. He never entertained any other idea.

Ques.-- What time on Wednesday did he die?

Ans.-- About 11 o'clock a.m.

Ques.-- How soon did he take to his bed after you returned on Monday night?

Ans.-- As soon as he related the circumstances. He could hardly sit up till he told it. He would speak a few words and then stop and rest.

Ques.-- Did you examine the wound on his body?

Ans.-- Yes sir, I looked at it a good many times and saw the Doctor extract the ball.

Ques.-- Describe the wound as well as you can.

Ans.-- It entered as I have before stated and the ball was taken out just above the left hip joint.

Ques.-- What was the state of your father's health prior to that shot?
State whether he had any injury upon his person before that.

Ans.-- His health was very good and he had no injury before that.

Ques.-- Was there anything said about a flag before your father was shot?
If so, what was said and by whom?

Ans.-- Nothing at all, I have stated all the conversation that occurred.

Ques.-- What was your fathers age, and had he any arms upon his person
when he was shot?

Ans.-- He was near 60 years of age, I think. He had no arms about
his person at the time and none about the house.

Ques.-- Were there any other persons about the house at the time except
your mother and yourself and what is your mothers age?

Ans.-- There were no others about the house at the time, my mother is
about 65 years of age.

Ques.-- If after your father made those statements about his being
bound to die, he made any statements in regard to what took
place after he entered the house, state what he said, give his
words as near as you can.

Ans.-- Father said as he came in at the back door he picked up a hatchet
and placed himself in a corner near the front door supposing
Furguson would come in that way, and that instead of Furguson
coming in at the front door he came in at the back door, and
did not discover him untill he had got near the middle of the
floor. Father said he saw that Furguson was aiming to shoot
again, and father jumped at him and knocked the pictol down
with the hatchet and the pistol went off the ball entering the
wall of the house. He said Furguson then aimed to put his
pistol against his (father's) breast to shoot him and that he
kept knocking the pistol off with his hatchet. He said they
scuffled around over the floor some time and at length Furguson

threw him on the bed, and Furguson again endeavored to put the pistol to his breast and that he kept knocking it off with his hatchet, and striking at Furguson with his hatchet finally striking him on the side of the head, and again Furguson attempted to put the pistol against his breast to shoot and he knocked the pistol out of his hand on the bed, and, I think he said it got lost in the covering of the bed, that then Furguson let him loose and started out of the house and father got up and persued him and knocked him out of the door on the ground with his hatchet and as he stered out of the door with his hatchet drawn, Filpôt advanced and stuck his pistol in father's face and cursed him and told him if he touched Furguson again he would blow his brains out in a moment. He said then he went up stairs and remained at the head of the stairs, with a hatchet in one hand and a pitchfork in the other, untill Furguson and Filpot had left. He said he heard someone come in the house and go out again. I don't remember that father stated who shot him, likely he may have said it but I don't remember.

Ques.-- When your father was relating what took place did he call the names of the persons he was talking about? If so, what names did he mention?

Ans.-- When he was speaking of Mr. Furguson, he said Champ and he spoke of Filpot he said Filpot.

Ques.-- How long had your known Furguson and how near had you lived to him?

Ans.-- I had known him ever since I knew anybody. I was raised within a mile of where he lived.

Ques.-- You state that your father lingered from Monday night till Wednesday 11 o'clock a.m. You will now state what was the condition of his mind up to the time of his death?

Ans.-- He was perfectly at himself and knew everybody who came in. He was in great agony and could not sit up.

Ques.-- At what time did your brother Robert come home?

Ans.-- He came home Tuesday night to my best knowledge.

Cross Examined.

Ques. by defendant's counsel. Had your father any wound upon his person other than the one you have described?

Ans.-- No sir, I don't think so.

Ques.-- What was the age and size of your father?

Ans.-- About 60 years of age. He was tolerably tall but not so heavy set as Furguson, about as tall as Furguson or maybe a little taller.

Ques. by court. Do you know from your own knowledge whether the first shot took effect or from your father's statement?

Ans.-- From my own knowledge, I saw it distinctly.

The Commission then adjourned to meet on the 5th inst at 8 a.m.

Nashville, Tenn. Aug. 5, 1865

The Commission met pursuant to adjournment

Presnet

All the members of the Commission, the Judge Advocate

And

Champ Furguson the prisoner.

Robert Wood, a witness for the prosecution sworn testified as follows:

Ques. by Judge Advocate. Are you the son of the late Reuben Wood of Clinton County Kentucky?

Ans.-- I am.

Ques.-- Were you at your father's house at the time of his death?

Ans.-- Yes sir.

Ques.-- How long before his death did you get to his house?

- Ans.-- I got to his house the night preceeding his death about 2 o'clock Wednesday morning.
- Ques.-- Did you examine the wound on your father's person ? If so, describe it.
- Ans.-- I saw it several times, saw where the ball entered and where it was extracted, it entered the left side at the side of the stomach below the left breast and ranged rather down and was extracted near the left hip joint. It was very much swollen when I saw him and appeared to be bleeding on the inside, attended with inflamation.
- Ques.-- After you arrived at home did your father say anything as to whether he would or would not recover? If so, state what he said in relation to his condition.
- Ans.-- I think the first words he said to me were "Robert I can't stand it long, Furguson has shot me?"
- Ques.-- Now state all about how he recieved that wound? and from whom? give his words as near as you can.
- Ans.-- He said he was coming down the road from the barn that he had been to the barn to feed and as he was coming from the barn he met Furguson, Filpot and some other man coming along the road driving some stock and that they ordered him to come to the fence and they both spoke to him as friendly as they generally did when they met him. Furguson then said to him "Ruben I understand you have been to Camp Dick Robinson" Father told him yes he had been there Furguson then asked him what his business was there? I think Furguson didn't want him to reply; but commenced cursing and abusing him without giving him time to reply. Furguson drew his pistol and ordered him not to beg or dodge and said he was going to kill him. Father said he remarked to Champ, "I have nursed you Champ," "has there ever been any misunderstanding between us?" and that Champ then replied "no, Ruben you have always treated me

as a gentleman; but that he said d--n you, you have been to Camp Dick Robinson, and you had no business there and just then Champ shot, the first shot was the shot that hit him, and as he aimed to turn round from the fence, Furguson shot at him but missed him. Father said he went round the house and went in at the end door and my father related what took place, in the house and after he had related that, and told about Furguson leaving the house he stopped and was unable to talk any longer, which was the last he talked on that subject. He merely whispered some words after that, and died about 11 o'clock the same morning. He had to stop and rest several times while reciting the facts to me.

Cross Examined.

Ques. by Defendants Counsel. What is the state of your feelings towards the prisoner? Did you and others attack and shoot at him? If so, state the circumstances.

Ans.-- I feel just like, I could take his life. He took my father's life without any cause, and I feel as if I could take his. I felt then as if I was willing to try it, and I did try it, myself and others did shoot at him; but before he shot my father I felt just as friendly towards him as I ever did to any person in the world. This attack by me on Furguson was after my father was killed, I think in December the same month my father was killed. Myself, two brothers, Mr. Crocket, and a second cousin of mine went to about 3/4 of a mile from Furguson's house he lived about a mile from our house, where he was raised. We went there between daylight and sun up we secreted ourselves in the woods about 15 or 20 steps apart along the road. We didn't know how many we were going to attack, as McNairy's battallion of "Bull Pups" were camped near there. About daylight we heard horses feet rattling down the road from us, and I looked round and saw Furguson and

Filpot coming at a full trot and three other men behind some 20 or 30 yds. but I didn't know either of them. As Furguson and Filpot passed Crocket, who was first, shot with a double barrel shot gun and shot Furguson's horse in the neck and the horse staggered back, just as they got opposite where I was and then I shot. Filpot lay down on his horse and in a moment after I shot Furguson lay down on his horse and they both went out of sight as fast as they could go at which time we left.

Mrs. Nancy Kagier, a witness for the prosecution having been sworn testified as follows.

Ques. by Judge Advocate. How long have you known the prisoner Champ Furguson?

Ans.-- I have known him ever since I was a little girl.

Ques.-- Are you the widow of Elish Kagier?

Ans.-- Yes sir.

Ques.-- Is Elisha Kagier dead, or alive?

Ans.-- He is dead.

Ques.-- When and where did he die?

Ans.-- He was killed the 1st day of June 1863 on Sunday morning.

Ques-- State how your husband came to his death, giving all the circumstances.

Ans.-- On that morning my husband was lying in the house asleep and he awoke and got up and went to the spring and while there ten men came up and commenced firing at the house, I didn't know any of the men only Furguson, and Henry Sublitz. When they commenced firing I told my husband the rebels had come and for him to get away. He started but did not get far. He got about 20 yds. when Furguson came up to him, and I saw Furguson shoot, and my husband threw up his right hand. I don't know whether either of them spoke or not. I could not hear for the screaming of my children, the party still pursuing and shooting at my husband till he came

to across fence some 50 yards from the house. I don't remember whether my husband got on the fence or not, I saw him fall and Furguson drew him from the fence a few steps. I got to my husband as quick as I could--my little daughter 11 years old had her father in her arms, the little girl having run out in the crowd and was among them when he fell. I got to him a few minutes after he fell he gasped one time, but never spoke, and died right then. Furguson and his crowd left the body and went back to the house and I stayed by the body about $\frac{1}{4}$ of an hour, and then went to the house where Furguson and the crowd were. Furguson was sitting laughing and the others were searching the house. I said to Furguson it looked like he was going to kill all my friends. He said there were some more he intended to kill, but didn't say who, and then I went back to where my husband was, and the crowd stayed nearly an hour at the house and then came out and caught one of our horses and carried it off with them. They had torn up all our notes that were of any account, they took a shot gun and pistol. I never got the horse or any of the property back.

Ques.-- Was Furguson at your house after that? If so, how long after and what property did he take if any?

Ans.-- He came there in July following; but didn't take any property at that time. There were some 2,000, or 3,000 men said to be of Morgan's Command with him. Furguson ordered some victuals sent out to the gate and I sent them. He didn't stay long as soon as he ate he started. Some 200 of the men stayed there all night and destroyed nearly everything I had.

Ques.-- Did you know Joseph Beck? If so, is he dead or alive? and did you find his body? If so, who went with you and where did you find it? and when was it?

Ans.-- Yes sir, I knew him, he is dead. I found his body. My sister Jane E. Walker and Marion Purcell went with me to find the body. Purcell was a young man living at my house and we found the body in the mountain one mile from my house. That was in August following the killings of my husband.

Ques.-- State if, on the day you found the body of Beck, you saw the prisoner? If so, when and how many men were with him? and was it before or after you found the body of Beck?

Ans.-- I saw Furguson about 9 o'clock in the morning he had seven men with him all passed my house, and after they passed I went out and found the body. I did not know any of the men only Furguson. I found the body of Beck just as soon after Furguson passed as I could walk to where it was.

Ques.-- From what direction did Furguson and his men come with reference to where you found the body of Beck?

Ans.-- They came down the mountain right in the main road and we found Beck's body 20 yards from the road right in the direction they came from.

Ques.-- Now, describe the condition of the body of Beck what wounds, if any, were upon it, was the body cold or warm, were the wounds fresh or old?

Ans.-- The body was getting tolerably cool. The blood was running very freely from the wound in his side and mouth. I didn't examine particularly to see what wounds were on the body. He was dead when we got to him.

Ques.-- Where was this?

Ans.-- In Clinton County Kentucky.

Ques.-- In what County and State was your husband killed?

Ans.-- In Clinton County, Kentucky, seven miles above Albion.

Ques.-- Please now describe the wounds on the body of your husband after

he was shot as you have related?

Ans.-- He was shot once in the left breast and twice in the right arm and once in the hand, below one ear and the ball came out immediately in front of the other.

Cross Examined.

Ques. by Defendant. You will state if your husband had a company scouting about for the Defendant for the purpose of killing him?

Ans.-- I never saw my husband scouting about after the defendant. If he ever had any company when he went away from the house he never told me about it. I never saw him hunting for anybody to kill them and don't know that he had any company.

Ques.-- Did you ever hear your husband make any threats against the life of Furguson?

Ans.-- I heard him say, if they came on him he would kill them if he could in self defense.

Ques.-- Did he keep his double barrel shot gun and pistol loaded at the house?

Ans.-- He did.

Ques.-- Why did he do so?

Ans.-- Because if Furguson had come on him by himself he would have killed him then if he could. He said he had nothing against Furguson and only wanted to protect himself.

Ques.-- Did you ever hear him say that he intended to kill Furguson?

Ans.-- I heard him say, if he could, when Furguson came on him, he would kill him.

Ques.-- Was your husband in the habit of going out and in searching for Furguson?

Ans.-- When he was gone I don't know what he was doing, he carried his arms when he went out.

Ques.-- Did any of your husband's men come to your house armed?

Ans.-- There were some neighbors who came there, some were armed and some were not; but I can't say that they were his men.

Ques.-- How long after the death of your husband was Beck killed?

Ans.-- It was some time in the month of August following in the year 1862.

Ques.-- Was Beck in the habit of coming to your house and going armed with your husband?

Ans.-- No sir, he was not, I had not seen Beck for some time before I saw him in the mountain killed, and don't know where he had been.

Ques.-- What was Beck doing in the mountain that morning?

Ans.-- I don't know he was there and there I found him dead.

Ques.-- Did Beck belong to an independent band seeking the life of Furguson?

Ans.-- Not that I know of.

Ques.-- Were there other southern soldiers passing the road that morning? and how many were with Furguson that morning?

Ans.-- There were seven passed with Furguson and none others.

Ques.-- What caused you to make a search for Beck that morning?

Ans.-- When the men passed down, my sister went out and I followed her and found the dead body of Beck one mile from my house.

Ques.-- Was your husband's brother at the house the morning your husband was killed? If so, was he killed or turned loose?

Ans.-- He was there, he was shot through the knee, and was not molested any farther.

Re-examined.

Ques. by Judge Advocate. You have been asked about your husband's leaving his house, you will now state, if you know, why he did not stay at his house?

Ans.-- He was afraid of Furguson and his men, was the very reason why he did not stay at his house.

Ques.-- Do you know where he had been the night before he was killed? If

so, state it.

Ans.-- He had been at Mr. Smith's $\frac{1}{2}$ mile from home.

Mrs. Jane E. Walker, a witness for the prosecution having been sworn testified as follows:--

Ques. by Judge Advocate. Are you the sister of Mrs. Nancy Kagier, the widow of Elisha Kagier?

Ans.-- I am.

Ques.-- State if you went with Mrs. Kagier to find the body of Joseph Beck?

Ans.-- I did sir.

Ques.-- State if, before you went to find Beck's body, you saw Furguson, the prisoner? and if so, if he said anything? If he did, state what he said and how long after was it before you found the body?

Ans.-- Yes sir, I saw Furguson, a short time before we found the body, he having passed the house about 9 o'clock in the morning. We found the body not over one mile from the house. Furguson rode up to the house and called and I stepped to the door, and Furguson asked me if there had anybody passed there that morning that was armed? I told him if there had, I had not seen them. He said we have killed a man up there, I don't know him myself, but some of the boys say it is Joe Beck. He said we could find him near the top of the mountain lying about 30 yards from the road and his hat and coat lying by the side of the road in a little drain.

Ques.-- When you went to find the body, state where you found it and where you found his hat and coat? if you did find them.

Ans.-- We found the body about 30 yards from the road with his feet towards the road, near the drain. I found his hat and coat lying right nigh by the side of the road in a little drain. His face was very bloody.

Ques.-- Was Beck dead, or alive? when you got there.

Ans.-- He was dead.

Ques.-- Who were along with Furguson when he told you they had killed Beck?

Ans.-- I did not know any of them, only Mr. Furguson.

Ques.-- Were you at Elisha Kagier's house when he was killed?

Ans.-- Yes sir.

Ques.-- State who came there that morning, and what they did?

Ans.-- Champ Furguson and others whom I don't know, came there and surrounded the house and commenced firing at it, and Kagier started to run and Furguson and another man, whom I did not know ran after him I could see them all the time--and I saw Furguson shoot him twice and then walked up and took hold of him and dragged him from where he was lying after which another man shot him.

Ques.-- Did you see Kagier's little daughter, and what was she doing?

Ans.-- She got to her father before he died and had his head in her arms when we got to him, the fore part of her skirt was very bloody.

Ques.-- How long had you known Furguson and how often had you seen him before that?

Ans.-- I had known him ever since I knew anybody, and saw him as often as I had seen other neighbors, all my life.

Ques.-- When the shooting at the house took place, state where you were? and if any balls came near you?

Ans.-- I was at the spring with my brother and I don't see how they kept from shooting me.

Cross Examined.

Ques. by Defendant's Counsel. Did Beck belong to an independent company or Guerrilla band? If so, who commanded said company?

Ans.-- I don't know whether he did or not.

Ques.-- Do you know whether Elisha Kagier ever belonged to or commanded an independent company?

Ans.-- He never did till after Furguson came to his house one night and surrounded it and swore he intended to kill Kagier. Isaac Smith came next day and told Kagier that Furguson had threatened his life and Smith said that Furguson had told him to so inform Kagier, then Kagier had a company but it did not stay together but a short time, I don't know what the company did.

Ques.-- Did Elisha Kagier leave the house before or after the men came up?

Ans.-- Before, and was at the spring washing when the men came up.

Ques.-- Was Kagier armed at the time?

Ans.-- No sir.

Ques.-- Do you know why Beck was up in the mountain the morning of his death?

Ans.-- No sir, I do not.

Ques.-- Where was Kagier the night you say Furguson and his men surrounded the house?

Ans.-- I don't know where he was but he was not at home, for he at that time had no arms.

Ques.-- Did you ever hear Beck say he ever belonged to an independent Company?

Ans.-- No sir.

Ques.-- Did you ever hear Kagier threaten Furguson's life?

Ans.-- I never heard him say anything, only, when he was at home, and we would try to get him to leave for fear of Furguson and his men, he then said if they came on him he would kill as many of them as he could.

Ques.-- How far was Beck from his home?

Ans.-- About $1\frac{1}{2}$ mile.

Ques.-- Did Beck ever come to Kagiers house armed?

Ans.-- He came there, along in the winter before, armed.

Ques.-- Did Furguson tell you anything about finding arms on Beck the

morning he was killed?

Ans.-- Yes sir, he said he got a very good Colts rifle from Beck.

Ques.-- What was the name of the young man who was shot in the knee the morning Kagier was killed?

Ans.-- Isaac D. Kagier.

Ques.-- What was done with Ksaac D. Kagier? Was he shot accidentally or intentionally?

Ans.-- He got on his horse and left for home, after Furguson and his men had left, and Furguson would not let him go till they got away. He was shot intentionally.

Ques.-- Why, did they quit shooting at Isaac D. Kagier?

Ans.-- He surrendered to them, I heard one man say G-d d--n you, I have the load in my guh to kill you; but he didn't kill him.

Ques.-- Was Isaac trying to escape when he was shot?

Ans.-- Yes sir.

Ques.-- Did Kagier try to escape as soon as he was apprized of Furguson's being there.

Ans.-- Yes sir, I stepped a few steps toward the house and Isaac Kagier ran past me, I was very much frightened and stopped there but how long I can't say.

Ques.-- Was Kagier ordered to halt at any time?

Ans.-- If he was I didnot hear it.

Ques.-- Where did you first see Furguson that morning?

Ans.-- After Isaac D. Kagier passed me, my sister came running to me, screaming and I looked and saw Elisha Kagier in the field and Furguson trying to get in ahead of him.

Reexamined.

Ques. by Judge Advocate, Did you see Furguson after Elisha Kagier was killed? If so, where and how long after?

Ans.-- I saw him coming back from Elisha in the field.

Ques.-- You have spoken of Elisha Kagier's company disbanding before he was killed. State if you know how the company came to disband?

Ans.-- I can not give the reason of it.

Ques.-- How long before he was killed did that company disband?

Ans.-- I do not know exactly, a right smart while, though.

Ques.-- Had Elisha Kagier been to Monroe about the time the company disbanded?

Ans.-- I can not tell.

Ques. by the court. How far was Kagier's body from his house?

Ans.-- About 130 or 140 yards. It may have been 160 yds.

The Commission then adjourned to meet at 8 a.m. on the 7th inst.

Nashville, Tenn. Aug. 7, 1865

The Commission met pursuant to adjournment

Present

All the members of the commission

The Judge Advocate

And

Champ, Ferguson the prisoner.

L. W. Duvall, a witness for the prosecution having been sworn, testified as follows:--

Ques. by Judge Advocate. Are you acquainted with Champ Ferguson, the prisoner? How long have you known him?

Ans.-- Yes sir, I know him. I have known him ever since I knew anybody almost, I have been raised with him.

Ques.-- Did you know Van Duvall and John Hurt? Are they dead or alive?

Ans.-- Yes sir, Van Duvall was a brother of mine, they are both dead.

Objected to by Defendant.

On the ground that the names of Duvall and Hurt are not mentioned in either specification in the charges and specifications and can not apply to 1st specification 1st charge--being a

guerrilla.

The Judge Advocate refers to the decision of the commission in reference to the killing of Woods and Edwards in the testimony of David Beaty, and says:--As to whether the proof will apply to 1st specification 1st charges in the commission can not tell whether it will apply or not untill they hear it.

Ques.-- When, and where did Duvall and Hunt come to their death?

Ans.-- They came to their death about the last of April or the first of May 1865 in Clinton County, Kentucky.

Ques.-- Did you see Champ Ferguson on the day of the death of Duvall and Hunt? If so, where, who and how many were with him? Were they armed or unarmed, mounted or on foot?

Ans.-- Yes sir, I saw at the residence of my father about six miles east of Albany Clinton County, Kentucky about 14 men with Champ Ferguson; but knew none but Ferguson, they were all armed and also mounted.

Ques.-- What was done there, how did Duvall and Hunt come to their death, what property was taken, if any, to whom did that property belong, and what did Champ Ferguson do or say in relation to any or all the acts of the band that day. State whether he came and left with the band, from what direction they came and in what direction they went when they left, and how they were dressed?

Ans.-- It was early in the morning about 3/4 of an hour by sun. My brother Van. Duvall, Hunt and myself were together, standing at the head of a spring, we saw some men come down the road but didn't know who they were. Two men came together first and stopped at the house lot, close to the horses, and went into the horselot, two men came up to the yard fence, one of which got down and went into the porch at the house, and the other once came down towards where we were standing, I did not know him; but he stopped and

ordered a surrender. My Brother Van Duvall said to him, we don't know whose men you are, he then ordered us to surrender a second time and demanded our arms. He ordered us to surrender the third time and as he did that he held his pistol in his right hand and fired at us. Van Duvall and Hurt drew their pistols and fired at him. He then turned his horse and dashed off up the road a piece and said "hurry up here with the command" at which time Duvall and Hurt started up the hill and I went down the branch and was soon out of sight of them, just here the command passed me, and I took it to be Furguson who said "Don't hurt that man, That's Bug Duvall"--and I recognised him; but knew none of the others. I heard some guns fired in about 5 minutes after they passed me. One man was left to guard me and he asked me what command those two men belonged to, I told him they didn't belong to any command, he then said "Don't commence telling your G-d d---ed lies I'll blow your brains out in a minute" and drew his pistol at which time a second man came up and told him to go on that he would guard me. The guard then said to me "let us go back to the house", we did so and about that time Furguson came up and ordered the men to go on. You men in the house he said, and the guard went on, Furguson rode up then and spoke to and shook hands with me and the usual compliments were passed. He then asked me what boys were they? and I told him it was Van Duvall and John Hurt. He then says "they are killed up yonder and then some conversation ensued between one of my sisters and Furguson in which he endeavored to excuse himself of the murder by saying "they commenced it with me", after which he left and went off down the road toward Livingston in the same direction that he had ordered his men to go. Furguson was in the crowd when he passed me at the spring in persuit of Van Duvall & Hurt.

There was a mare and a horse taken from my fathers stable, the mare belonged to me and the horse to John Hurt, and they were never returned. I don't think there was any other property taken, They came from the direction of Somerset, Kentucky. I can not tell how they were dressed, I think they were pretty well dressed in dark clothes. I don't think any of them had on any gray or blue uniform.

Ques.-- Did you see the bodies of your brother and Hurt after that? If so, how soon after and what was their condition?

Ans.-- Yes sir, I went and brought them in--or helped to do it--just as soon after Furguson left as it could be done. They were both dead when we found them. I think Hurt was shot in the back, the ball entering to the left of the back-bone and came out just below the nipple on the right side, and another shot entered the back part of the head and did not come out. My brother was shot in the lock of the jaw on the right side and came out near the center of his forehead,

Ques.-- Are you certain that this was as late as the last of April or the 1st of May last? State whether before that you had heard of the evacuation of Richmond by the rebels and the surrender of Lee's army.

Ans.-- I am sure it was in the last days of April or first of May. I had heard of the fall of Richmond and the surrender of Lee before this occurrence took place. I take the papers and had read of it.

Ques.-- Did you know the pecuniary condition of the prisoner prior to 1861? Do you know whether he has acquired property since that? If so, how much? What kind of property and where is it?

Objected to by accused.

On the ground of irrelevance impertinence, and being entirely foreign to the issue.

Objection Sustained.

Ques. What relation was Van Duvall to Mrs. Nancy Kagier?

Ans.-- Mrs. Nancy Kagier is a niece of Van Duvall.

Ques.-- What relation was Mr. Frogg to Mrs. Kagier?

Ans.-- They are brother and sister.

Cross Examined.

Ques. by Defendant. Were you armed while at the spring?

Ans.-- No sir.

Ques.-- How far were Van Duvall and John Hurt from their homes?

Ans.-- John Hurt was about seven miles. Van Duvall was about sixty miles, he lived in Taylor County, Kentucky.

Ques.-- What was Van Duvall's reason for being so far from home?

Ans.-- One and all the reason that I can state was that, my father was lying at the point of death, and did die shortly after that, and Van was there to see him.

Ques.-- How were Van Duvall and John Hurt armed?

Ans.-- I think Duvall had a navy and Hurt had two.

Ques.-- Did they always carry their arms?

Ans.-- Always had them when I saw them.

Ques.-- What were you doing at the spring?

Ans.-- We were there to wash.

Ques.-- Why did they take with them their arms when so near the house?

Ans.-- To defend themselves I suppose, if anything should occur.

Ques.-- Did John Hurt belong to an independent or guerrilla band? If so, to whose?

Ans.-- Not that I know of.

Ques.-- Did Hurt ever tell you he did?

Ans.-- He never did.

Ques.-- Did they state that morning why they didn't surrender that morning when called on to do so?

- Ans.-- He did not say anything to me at all, only asked the man demanding the surrender whose men they were.
- Ques.-- Why didn't you follow them in their retreat?
- Ans.-- I suppose I thought there was no chance to get away and had no arms and did not calculate to fight no how.
- Ques.-- Had you ever been connected with any command belonging to either army?
- Ans.-- I once belonged to the 12th Ky. Federal Infantry.
- Ques.-- Did either Hurt or your brother belong to any command at that time or had they ever belonged to any?
- Ans.-- I think neither of them belonged to any command at that time. My brother had belonged to the 13th Kentucky Mtd. Infantry.
- Ques.-- Did not Hurt belong to his brother's Independent Company?
- Ans.-- I think he did in 1862, before he joined the 13th Kentucky Mounted Infantry.
- Ques.-- Did not Furguson tell you he would have your horses returned if possible?
- Ans.-- Yes he told me if I would go with him to the command I should have my mare. They had left two old horses there and said I would try and get along with them.
- Ques.-- Was not Furguson behind the command when he told them not to hurt you?
- Ans.-- Furguson was right in amongst the crowd.
- Reexamined.
- Ques. by Judge Advocate. How long had your brother Van Duvall lived in Taylor County, Kentucky, and where did he live before that?
- Ans.-- I think he moved his family out there in 1863. He had lived in Clinton County Kentucky before that.
- Ques.-- State if you know why he left Clinton and went to Taylor County?
- Ans.-- He left Clinton County because he said he did not think it safe

for him to remain there, he was afraid of Champ Furguson.

Question by the Court. How do you know why your brother went to Taylor County, Kentucky?

Ans.-- I suppose it was from the circumstance of Furguson's having been taken prisoner by me, my brother, Van Duvall and some others.

Ques.-- State when it was you took him prisoner, the circumstances of the capture, and whether he made his escape or was set at liberty.

Ans.-- One night after dark in 1861, I, my brother Van, Wm. and Andy Huff one of the Huddlestons, James Padgett and some others were going in the direction of Jimtonw, in Livingston County, and we met Champ Furguson and a man named Dinton, they passed us a little piece and we turned round and arrested Champ Furguson some of the men having their guns pointed at him. Furguson said, "hold on" my brother said "don't raise your arms" Furguson said, "you had as soon shoot a man as not" my brother said "yes, I'll blow your brains out if you move". I then spoke and tole the boys, to hold on, that he had given up. No guns were fired; but I think that there was one snapped by one of the men. We took their arms, Dinton had a pistol and a large butcher knife, and Furguson an old "peper box" six shooter. We then all turned back and came to John Filpot's about ten miles from where we took them prisoners. The intentions was to take them to Camp Dick Robinson. I left them at Filpots and they started with them to Camp Dick Robinson. He got away from them but I don't know how. If, at the time Furguson was told not to move or raise his hand, he was doing anything I didn't see it. We were going into Fentress County to get some property that belonged to the Huffs. There were said to be some Rebel soldiers said to be on Walf River and we ook Furguson and Dinton to prevent them from going to those soldiers and telling what we were doing. The party were nearly all citizens.

There was one soldier along belonging to the 1st Kentucky Cavalry,
whose name was Huddleston.

The commission then adjourned till 8 a.m. the 8th inst.

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