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**Compiled by Darren McMannis**

## SOURCE ARTICLES

### **1872-15 – Contempt of Court**

**JAMES BREWER**

OCTOBER 19, 1872 - CASE # 1872-HM16

On October 26, James Brewer “Made Complaint on oath charging that on the 19th day of October, in the County of Harvey, and State of Kansas, one Benjamin Ferguson, Peter Ferguson, & C. A. Tracey, did then and there, unlawfully, feloniously, maliciously, and with intent assault, beat, and bruise the said affiant. Warrant Issued, dated, directed, and delivered to Henry Mayer, Constable of Newton, Township in said County.” *1872 Court Register transcribed by Darren McMannis. Register Book provided courtesy of the Harvey County Historical Society & Archives, Newton, Kansas.*

NEWTON - To The Voters of Harvey County. Believing that you desire to see justice done and vindicating a political opponent from false charges, and as many false charges have been and are now being circulated to injure me. It is charged that I went to the house of James Brewer while he was sick in bed, and got into a quarrel and held him while another man struck him two murderous blows with an axe. The following are the facts as sworn to by two honorable men. C.A. Tracy.

We, Peter and Benjamin Ferguson upon oath, say, that on the 19th of Oct. 1872, we went to the house of James Brewer to get a plow for which we had an order from the owner. James Brewer came out of the house with gun in hand, cocked and shot Benjamin Ferguson, who fell, and Mr. Brewer jumped upon him. We then called Mr. Tracy, who was about seventy five yards distant, and he came and pulled Mr. Brewer off of a man supposed to be mortally wounded; and that is all that Mr. Tracy had to do with the transaction whatever. Signed Peter Ferguson and Benjamin Ferguson. Sworn and subscribed before me, this 30th day of Oct. 1872. James A. Popkins, Justice of the Peace.

The above accusation has been circulated by parties, and they have even went as far as to have an information filed against Mr. Tracy, in hopes of defeating him. The above sworn statement will clear Mr. Tracy. *The Newton Kansan, Newton Kansas. Thursday, October 31, 1872. Page 2.*

6 months later, P.M. Morgan filed a lawsuit against James Brewer, in which Brewer was judged guilty of shooting with intent to kill, and sentenced to one year in the Penitentiary. Benjamin Ferguson in a separate case was found guilty of simple assault, and fined \$40 plus costs. See *The Newton Kansan, Newton, Kansas. Thursday, April 17, 1873. Page 3.*

NEWTON - The sheriff took Mr. Brewer to the penitentiary Tuesday. *The Newton Kansan, Newton, Kansas. Thursday, April 17, 1873. Page 3.*

NEWTON - Notice is hereby given that on Monday, May 12, 1873, James Brewer will make application to the Governor of the State of Kansas for a full and complete pardon. Said Brewer was convicted at the April Term, 1873, of the District Court of Harvey county, Kansas, of the crime of shooting with the intent to commit manslaughter. Signed, James Brewer. *The Newton Kansan, Newton, Kansas. Thursday, May 1, 1873. Page 2.*

NEWTON - James Brewer, of Sedgwick township, who was sentenced to one year in the penitentiary at the last term of the District Court, was released by the Governor about three weeks ago, and is now at his home. *The Newton Kansan, Newton, Kansas. Thursday, June 26, 1873. Page 3.*

## **GEORGE HALLIDAY & M.J. FITZPATRICK**

NOVEMBER 7, 1872 - CASE # 1872-HM17

NEWTON - Horrible Affray. Before closing our forms for press this morning one of the most bloody affrays, within the limits and before the eyes of an enlightened community took place in this city, we have ever as a journalist, been permitted to put in print. We have to chronicle the murdering of George Halliday, Esq, a well known, highly esteemed and prominent citizen of this city, by M.J. Fitzpatrick, one of the most noted murderous and wicked men in the country, especially when under the influence of that which has caused more untimely deaths than any other thing - liquor. Fitzpatrick had been upon a drunk for perhaps two weeks, and until that wicked nature of his had begun to overcome his senses. Last night he hunted several parties of his associates with pistol in hand to kill them. This morning he entered the Gold Room saloon in this state of mind with pistol in hand and there met Mr. Halliday, who was also intoxicated.

Some trifling words passed between them, for they were ordinarily good friends, when Fitzpatrick struck him aside the head with a revolver, at the same time he pulled it down to his

breast and missed fire once, pulled it again and it was discharged, killing Mr. Halliday almost instantly.

After this Fitzpatrick walked into the street defying any person to attempt to touch him. Crowds of men immediately rushed to satisfy themselves as to the affair, and in two minutes after fifty men ran for firearms and swore him death.

Marshal Johnson in the capacity of his duty attempted to arrest the murderer, who immediately drew the revolver on him also. Calmly surveying the situation the Marshal crossed the street, borrowed a Henry rifle and in another minute put an end to his existence - shooting Fitzpatrick dead in the street nearly in front of Hamil & Co.'s store. A committee was in fifteen minutes thereafter organized, the names of several hard cases and their roosts taken down, and what could be found were ordered to leave town and to stay away. We think this committee means what they say, and will not let it pass away with the excitement.

While we lament the death of Mr. Halliday, we believe this has been one of the best days our thriving young city has ever seen. Our respectable and law-abiding citizens have taken the matter into their own hands, and will see that hereafter Newton shall give no shelter to men who live by murdering and robbing good people, but shall win that reputation near and far that shall be to it an honor and not a disgrace.

Mr. Halliday was a Scotchman by birth and came to Topeka about three years ago, where he resided up to twelve months ago when he moved to this place and has been engaged in the land and law business. He leaves a young wife to mourn his loss. His remains will be taken to Topeka for interment. *The Newton Kansan, Newton, Kansas. Thursday, November 7, 1872. Page 3.*

NEWTON - Serious Shooting Affray. A very serious shooting affray occurred here to-day. A desperado, named M.J. Fitzpatrick, who has been on a continued drunk for some time past, got wild with whisky, and while in that state picked a fuss with Justice Holiday, which resulted in Fitzpatrick shooting and killing Judge Holiday. The citizens got together and formed a safety committee. After the shooting of Mr. Holiday, Fitzpatrick walked in the middle of the street toward his saloon and on arriving there he looked back and saw the City Marshal, Jack Johnson, coming towards him with a heavy rifle. He immediately turned around, and flourishing his revolver walked toward Johnson. Johnson demanded him to surrender and throw up his hand. Fitzpatrick replied by leveling his revolver at Johnson's heart. Johnson then shot him through the heart, killing him instantly in his tracks. Fitzpatrick, before the serious fight occurred, had beaten four other persons in the face and over the head with his revolver, and shot a man through the hat. Judge Holiday was a respectable citizen and well liked in Newton. He was shot

in the Gold Room. Several bad characters have had notice to leave town. *The Daily Democrat, Sedalia, Missouri. Friday, November 8, 1872. Page 1.*

NEWTON - A Justice Shot By An Outlaw. At Newton, Kansas, on Friday last, Justice Holliday was shot dead by a desperado named Michael Fitzpatrick. Marshal Johnson shot the outlaw dead. *The New York Sun, New York, New York. Monday, November 11, 1872.*

NEWTON - Shooting Affray At Newton. Newton is the same old six and seven. On night before last some gentlemen who had been working in this city were passing Newton en route for home. At the depot they were attacked by robbers and narrowly escaped with their lives. On yesterday morning a man by the name of Holloday was shot dead by Fitzpatrick, who in turn was killed by a marshal named Johnson. Great excitement prevailed. Farmers came into the town armed with rifles, and uniting with the better citizens of Newton, paraded the streets and closed all the saloons by force and virtually put the town under martial law. This shows what may take place where saloons and dance houses are regarded as evidences of prosperity. *The Hutchinson News, Hutchinson, Kansas. Thursday, November 7, 1872. Page 3.*

NEWTON – Resolutions. At a called meeting of citizen Masons of Newton on Thursday, Nov. 7th, the following resolutions were unanimously adopted: Whereas, It has pleased Almighty God in His all wise providence to remove from our midst our beloved friend and brother, George Halliday, and Whereas, By his sudden death his family has been deprived of a kind and indulgent protector and the community a highly esteemed citizen, therefore be it Resolved, That we do extend to the family of our deceased friend and brother, our heartfelt sympathies in this the hour of bereavement and be it Resolved, that we wear the usual badge of mourning for a period of 30 days, and furthermore be it Resolved, That a copy of these resolutions be published in the Newton Kansan, and a copy presented to the family of the deceased. Signed: S.E. Mahan, D. Hamill, R.E. Torrington. *The Newton Kansan, Newton, Kansas. Thursday, November 14, 1872. Page 3.*

NEWTON – Correction. Will the Hutchinson News be kind enough to correct its last week's report of the shooting affray in this place, since one half of it was known to be untrue? When paper's in little towns like it are so hard run for news that they have to resort to printing false reports of neighboring county towns, in the vain hopes of reaping benefits therefrom, it might be a matter of convenience to "help to fill up" to all them the privilege of correcting the same. And should a similar affray befall that place, which is as liable to do at any time, we shall endeavor to not do as did it. Judge Halliday was buried last Friday afternoon at 3 p.m. with Masonic honors. In justice to Mr. P. Newton, in whose saloon Halliday was shot last Thursday, we would state that as soon as Mr. Newton discovered Fitzpatrick's intentions he stepped up to and endeavored to divert his actions and barely escaped receiving the first shot himself. *The Newton Kansan, Newton, Kansas. Thursday, November 14, 1872. Page 3.*

NEWTON - Peep Newton Still Lives. A story has been circulating in this vicinity for several weeks that Andrew Newton, son of Michael Newton, who was raised here and well known by the cognomen of "Peep," was lately shot in his saloon at Newton, Kansas. His mother, who is stopping with her sister, Mrs. Carney, received a letter from him last week which fully satisfied her, and ought to satisfy "any other man," that he "still lives." It seems that "Peep" kept a saloon in that village which he moved out of some time ago, and the man who took his place got shot, which is a common occurrence in that part of Kansas. It being soon announced that the keeper of that saloon was shot, poor "Peep" got the credit of dying without knowing it until he saw it in print." *The Waukesha Plain Dealer, Waukesha, Wisconsin. Tuesday, January 7, 1873. Page 3.*

NEWTON - A Sober Reflection. The sad events which took place in this city one week ago, whereby two of our well-known citizens, in a mid-day and while under the influence of liquor were upon our most public street shot dead, are occurrences that will never be forgotten by this community. The shock which demon like rent the quietude of the whole populace, and especially those who witnessed any of the terrible results, were such they will never forget – may they never see the like again. The gloom which has ever since overshadowed this people, tells too plainly with what feelings do they regret the same, but like most ill omens, they came as the "thief in the night," when they least expected them, and while they deplore the sad calamity should now seek a preventative against others.

Changing the tenor of this somewhat, and as there is a reason for all things, let us reason plainly upon the cause of such disasters. We know they are seldom, but are serious offenses deserving attention, while minor ones which oftentimes lead to them have received approval and favorable countenance here by those whose lawful duty it was to condemn and punish. As a community we are as civil, respectable, and law-abiding as any in the State, and none other of its size and age has a brighter future before it, with a battalion of young men, honorable, intelligent and energetic to forestall and defend its rightful claims. Neighboring towns in almost every direction some of whom are in a majority peopled by men and women who make no pretensions to respectability, under the watchings of the officials of those places seldom have a disturbance, or can there be seen a semblance of anything that would lead to one. The same class in this place in its younger days did about as they saw fit, under these officers.

In times past and even recently, all that has been necessary for the biggest loafer in Christendom to do to take the sidewalks and run the towns business of this place in opposition to the whole police department, was simply to get drunk and then treat the crowds. If someone happens to be arrested, he is given a school-boy trial; if he can't pay his fine and doesn't make any threats (providing he is a stranger or from the country) he is marched to the calaboose, left until sober, and then let out, the expenses being charged up to the city. The city council might pass ordinances till doomsday under such officials, and to no effect. Is that the kind of an

administration that is to insure to us our property and our lives? Go ask that young widow as she passes the lonely hours thousands of miles from home and friends, and whose whole life seemed centered upon that food and drink carried home to her one week ago, has she has found peace and comfort for that aching heart of hers under this administration. Go ask the parents and friends of that man, who under sober influences had as kind and manly heart as perhaps the majority of mankind and with no ordinary abilities, but through the insanity of intoxication became a murderer, if under such a modus operandi of civil government, wherein he, a beloved one on whom they perhaps centered bright prospects, should have to be sent unprepared to an untimely grave, and see whether they think had the proper means been used which are vested in the authorities it would have been thus? Go ask nine-tenths of the people whom we address to day as to where lays the evil of all this and they will but repeat our words, and say that our laws – where are they? We present the following, which is a synopsis of some of the ordinances of this city, and which if carried out would insure us perfect peace and quiet at all times. Let our citizens read them and then reflect on how many of them have been carried out by the proper officers up to ten days ago. It is with no pleasure that we speak thus of this matter, but it is our duty, and the thoughts of nearly every good citizen. Our laws are being laughed to scorn, and our police government has been but a farce. Let us then turn a new year, determined to in the future do better. *The Newton Kansan, Newton Kansas. Thursday, November 14, 1872. Page 3.*

NEWTON. Letter From Newton. Mrs. Halliday, the wife of Judge Halliday who was murdered here a few days ago, is still here. How sad must be her reflections. Coming as she did all the way from "Bonnie Scotland" to meet and marry her heart's choice - her George. Then how happy, how radiant were her dreams. But now, alas, how changed! After a few short months of domestic bliss, of happy contentment, in an instant, without the slightest warning, that loved and loving husband is foully murdered, in the broad light of day, and almost within sight of their cheerful, quiet home, and now: "All that's left of the bright, bright dream, With its thousand brilliant phases, Is a handful of dust in a coffin laid, And the coffin under the daisies." With the kindest recollections of George Halliday, we say, green be the turf that waves over your grave, and peaceful be your rest; and may that God who tempereth the winds to the shorn lamb fitly protect and keep that wife whom you loved. *The Wichita Eagle, Wichita, Kansas. Thursday, November 28, 1872. Page 2.*

NEWTON - George Halliday's Body Moved. The remains of George Halliday, who was shot and killed on Nov. 7th, 1872, by M.J. Fitzpatrick in a gambling den in this city, were removed from "Boot Hill" yesterday to the Masonic grounds in the city cemetery. *The Newton Daily Republican, Newton, Kansas. Wednesday, November 23, 1887. Page 4.*

NEWTON - Recollections of Early Days. The removal of the remains of George Halliday this morning from one of the popular drives of city cemetery to the Masonic grounds in the same, brings back to the memory of many pioneer settlers of Newton a faint recollection of the horrible affray that caused the death of that then much respected citizen. He was killed in the Gold Rooms saloon, a small frame building located on Main street, near where the old opera house now stands, by a rough and murderous character by the name of M. J. Fitzpatrick. In those early days Newton was infested by a gang of murderous outlaws and cowboys, among whom Fitzpatrick figured quite prominently. Halliday was a practicing attorney here then and was greatly respected and highly esteemed by all who knew him.

It was on Thursday morning, November 7, 1872, just fifteen years ago the seventh day of this month, that he met his death. He was in the above name saloon and was slightly under the influence of liquor when Fitzpatrick entered, and some trifling words passed between them, for they were ordinarily good friends when the latter struck Halliday aside the head with a revolver, at the same time he levelled the weapon at his breast and fired, the ball failing to take effect, when he discharged the weapon again, killing Halliday almost instantly. Immediately afterward Fitzpatrick appeared on the streets brandishing his weapon in air and defying any person to attempt to arrest him. A man named Johnson, then marshal of the city slipped across the street, and borrowing a Henry rifle approached the old town well, now in the center of Fifth street on Main, from where he discharged the weapon, killing Fitzpatrick in front of Hamill's old building now occupied by Gross & Boyd's barber shop.

Fifteen minutes afterward a committee of citizens met and organized and drove every rough character out of the town, and from that time to this the city has been quiet and peaceable. Fitzpatrick was buried in "Boot Hill," a few rods west of the ravine on East First Street near where the residence of G.O. Smith now stands. In the removal of Halliday's remains, the men engaged in the work removed the lid of the coffin to ascertain how the body had been preserved. The bones of a human body was all that met their gaze. The bullet that was discharged from Fitzpatrick's weapon fifteen years ago was taken from the coffin together with a number of artificial and natural teeth. The artificial teeth were as bright and as solid apparently as they were the day they had been placed in the man's mouth. A natural tooth about four times the average size of a human tooth, was removed, and as it was examined by the men engaged in removing the coffin, they decided that it had been growing ever since. The residents of Newton who were here when the scene recorded took place will never forget the trying times of those early days when gambling dens and hell holes were kept open night and day and lawlessness reigned supreme. What marked contrast there is between the Newton of 1872 and the Newton of 1887. *The Newton Kansan, Newton, Kansas. November 24, 1887. Page 2.*

## THE MORAL

JUNE 12, 1873

NEWTON – Rev. J.P. Harsen, of Wichita, says of the recent affray in that city: The moral we would draw from the shooting affrays of last week is, that as men value the safety of their lives they should keep away from places they ought not to be in. Human life is as safe in this town as in eastern cities, provided a person attends to his legitimate business, and gives a wide berth to the dance house and the saloon. Most of the shooting and killing that has taken place in this vicinity and the neighboring town of Newton, has occurred in these places above mentioned.

Let a man or a woman who is pursuing the peaceful avocations of life be shot down in cold blood, and we would see a very different state of public feeling than is now evinced in respect to the occurrences of last week. We believe we express the sentiment of a large class of persons in this community when we say that we sympathize for the sufferers, but if men will go to such places they must expect to take the consequences. *The Newton Kansan, Newton, Kansas.*

*Thursday, June 12, 1873. Page 3.*

## FRONTIER JUSTICE

OCTOBER 12, 1892

KANSAS CITY - A Justice of the Peace has decided that it is legal for any householder, from his own premises, to throw water upon an organ-grinder who refuses to move on. *The Newton Daily Republican, Newton, Kansas. Wednesday, October 12, 1874. Page 4.*

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