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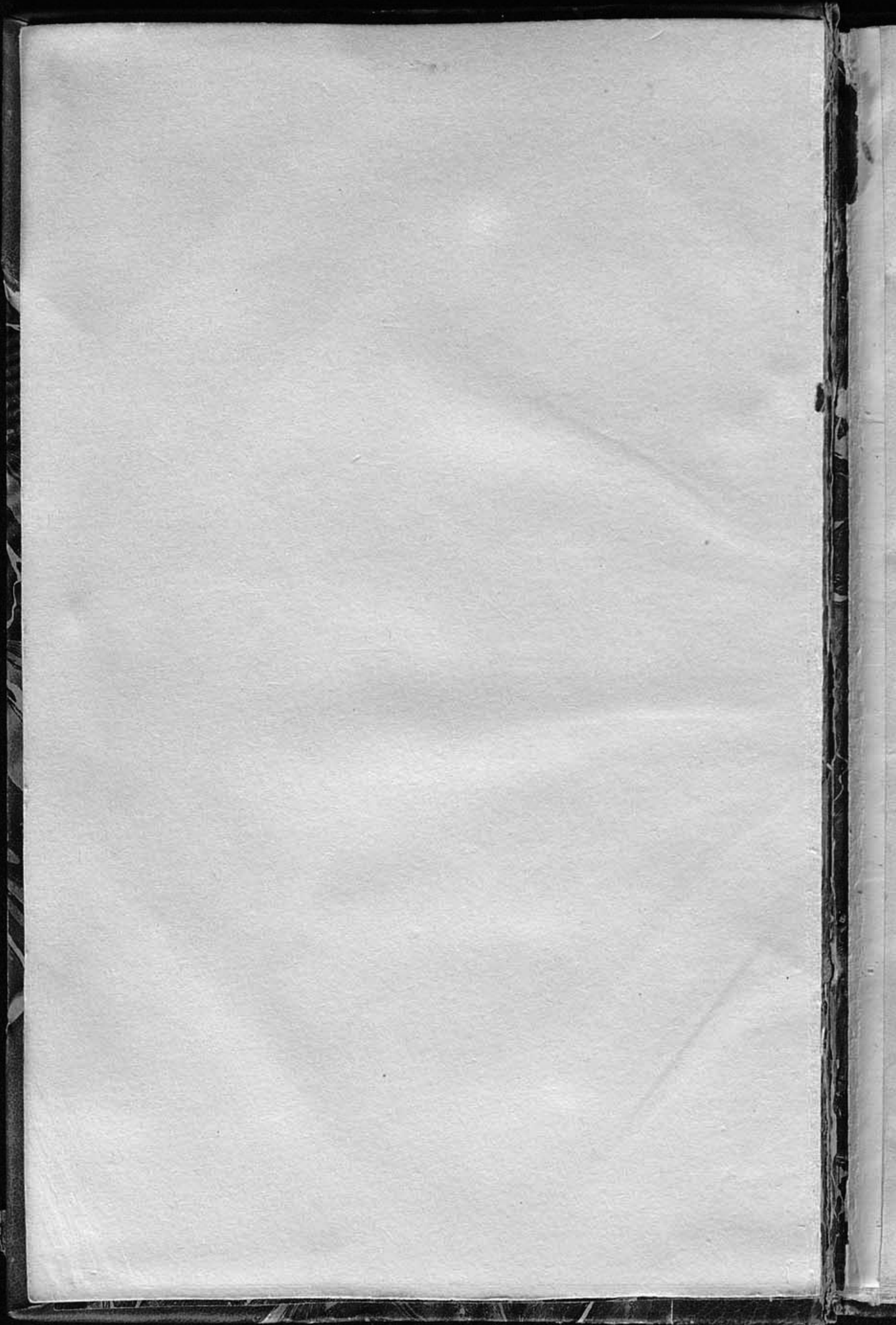
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TRIAL

OF

JUDGE WILKINSON, DR. WILKINSON, AND MR. MURDAUGH,

ON INDICTMENTS FOR THE MURDER OF

JOHN ROTHWELL AND ALEXANDER H. MEEKS,

IN AN AFFRAY WHICH OCCURRED AT THE GALT HOUSE, LOUISVILLE, KY., ON THE 15TH OF DECEMBER, 1838.

REPORTED BY T. EGERTON BROWNE,

Editor and Proprietor of the Louisville Daily Reporter.

Printed and Published at the Daily Reporter office, Pearl street, Louisville,  
AND TO BE HAD OF ALL THE BOOKSELLERS.

LOUISVILLE:  
APRIL, 1839.

ENTERED, according to Act of Congress, in the year 1839,  
BY T. EGERTON BROWNE,  
In the Office of the Clerk of the District Court of the United States for the District of Kentucky  
in the Eighth Circuit.



## INTRODUCTION.

I DEEM it necessary that the reader should be made acquainted with a few circumstances connected with this trial, for the better understanding of the question placed at issue before the jury. I shall endeavor, without the slightest bias, for I have none, to make the proper explanation, not, I trust, displeasing any party interested in the proceedings. As I take upon myself this responsibility, I shall confine my remarks to what fell within the range of my own observation.

On the evening of the 15th of December, I was in the Louisville City Theatre, shortly before the rising of the curtain, when a young gentleman who had just come into the boxes, told me that an affray had taken place at the Galt House, about six o'clock that evening, in which one person had been killed and another so dangerously wounded that his life was despaired of; and that two others had been slightly wounded. It was also mentioned that the parties engaged in the affray were, on one side, three gentlemen of Mississippi; one, Judge Wilkinson, of Yazoo county, in that state; another, Dr. Wilkinson, his brother; and the third, a gentleman named Murdaugh, the Judge's friend, and from the same state; on the other side, Mr. Redding, of the firm of Varnum & Redding, merchant tailors, corner of Pearl and Main streets; his brother-in-law, Mr. Rothwell, the latter, corner of Market and Sixth streets; and Mr. Meeks, formerly bar-keeper to Mr. Dewees, on Wall street, &c. It was stated that the affray arose out of a circumstance which had occurred at Mr. Redding's store at four o'clock that evening; and that the altercation then engendered had been renewed in the bar-room of the Galt House—where the persons had met, it was not known for certain, how. The gentleman telling the affair in the Theatre, gave his evidence afterwards at the examining court and subsequently at the following trial. He said that he could not tell which side was to blame, the thing was so sudden; but that it was a dreadful sight. One person, Meeks, he had seen lying dead on the floor, with his bowels protruding from a wound in his belly; and another, Rothwell, lying on chairs, with blood oozing from wounds in his back. That it was a strange circumstance, as he understood the Mississippi gentlemen were men of the highest character; and also that Redding and Rothwell were men greatly esteemed by the community of Louisville, and that their character had always stood very high. This gentleman seemed to think that it would be impossible to form

any correct opinion until the facts could be legally investigated. He had understood the Mississippi gentlemen had been arrested and taken to jail, on suspicion of having inflicted the wounds which caused the death of Meeks and the danger of death under which Rothwell labored. The excitement of the crowd about the Galt House, he stated, was very great, as the persons assembled knew only of the stabbing and the blood spilled, without any chance of learning the other facts correctly. Shortly after, perhaps by 8 o'clock, the police officer who had taken one of the gentlemen to jail, came into the Theatre, as usual in his rounds of duty, and I learned from him, that it had been considered proper to take the Mississippi gentlemen out of the Galt House privately, lest the crowd might interfere with them; and that one gentleman had accompanied him; another, Capt. Turner; and the third, one of the other officers. That the Mississippians were themselves greatly injured in the affray; and that they seemed every way disposed to meet the investigation. The officer told me that when it was found these gentlemen were lodged in jail, the crowd was easily dispersed on the Mayor's remonstrance. He said, groups of persons talking over the matter were in the streets and around the jail; but he did not apprehend any interference with the proper authorities. I had confidence in his statement, and fully believed that no outrage would be attempted which would not be promptly controlled by the Police, backed, as I knew they would be, by every respectable citizen.

Groups of persons were to be seen at the corners of the streets next day, Sunday, talking over the occurrence; some of course speaking of the bloodshed in terms of abhorrence, others justifying it as unavoidable, in self-defence—and, in short, it was quite certain that public opinion was very much divided as to the merits of the case. All looked with anxiety to the examination at the police court, as if that alone could give a clue to the apparent mystery of persons of high character being involved in a difficulty of the kind. On that evening about six o'clock, Mr. Rothwell died, at Mr. Redding's house, where he had been removed from the Galt House. His death occasioned a great and melancholy gloom throughout the whole city. People talked of it with tears, as a circumstance peculiarly to be lamented. The oldest inhabitants of the city could call to mind, vividly, the day on which his mother had landed on the wharf with him an infant in her

arms, just thirty-seven years ago. He had grown up with its growth—almost its coeval in years—and he had prospered with its prosperity by keeping pace with its enterprize and industry. As a mechanic, he had reached competence after a life of toil; as a citizen, he had won the affections of all that knew him, by the warmth of his heart, the devotedness of his friendship, and the zeal and promptitude with which he sought the point of danger when fire or pestilence assailed their habitations. That the untimely death of such a man should be deeply deplored, cannot excite wonder; that it aroused angry passions may be pardoned; but that it could have induced the citizens of such a civilized community as Louisville to submit to any innovation on the prerogatives of legal authority or the principles of justice, would be a belief which no reasonable and unprejudiced mind could entertain. On Monday morning Messrs. Wilkinsons and Murdaugh were brought before the Police Court, which was crowded to excess; but the necessary witnesses being absent, the investigation was postponed to the following Wednesday.

About three o'clock in the afternoon Mr. Rothwell's remains were attended to the grave by a very large concourse of citizens; many of the companies of the city in costume. He was buried in a little grave-yard set apart several years ago by his father, on a piece of wood-land which he had owned, about a mile south of Centre street, near Beargrass creek. He was in his 38th year, and unmarried—his mother one single, and three married sisters, surviving him.

We have but little opportunity for collecting any details of interest to the reader respecting Mr. Meeks. His family, it was said, lived at Madison, Indiana. He had been some years known in this city; part of the time as bar-keeper to Mr. Dewees, who keeps the hotel on Wall street. Since his death it has been erroneously asserted in the eastern papers that he was the noted Robinson; but it is certainly a mistake. Many still assert that he had a great resemblance to Robinson; that, however, may have been accidental.

The examination at the Police Court, in the order in which it took place, will be found in the appendix. It is only necessary here to state that with its progress all excitements and prejudices abated; and every one began to view the question of the guilt or innocence of the accused as a matter which a jury alone could properly decide. So considerably had the examination allayed the public excitement, that when the gentlemen were admitted to bail, they could run no risk whatever in walking the streets like other citizens. I shall not presume to say that prejudices did or did not exist of such a nature as to render their trial in Louisville involved in difficulty. A copy of their petition to the Legislature for a change of venue, will be found in the appendix; also a copy of the act authorizing that change.

I do not now recollect any other point of interest, or necessary to be explained, which will not be found in the proceedings themselves.

My motives for publishing this trial are threefold: one, I am not uncandid enough to disavow; it is my professional duty, as much as the advocacy of the lawyer is his duty to himself and his family who live by his labors; a second is that I wish to gratify the citizens of Louisville by any exertion I can make for them in compensation for their patronage; and the third, which I can with sincerity say is the most powerful and most satisfactory to my own mind, is the conviction that the publication will aid the great principles of truth and justice. If those whose passions on either side have hitherto obscured their mental vision, can judge now more impartially from the facts and evidence than they could hitherto have done, I shall esteem myself a useful laborer in the search of truth, and in the establishment of my own principles of belief, that man is more prone to the love of truth and justice than to deceit and evil, when the opportunity is afforded him of choosing between them.

T. EGERTON BROWNE.

Daily Reporter Office,  
Louisville, Ky. April, 1839. }

## TRIAL

OF

### JUDGE WILKINSON, DR. WILKINSON AND MR. MURDAUGH, IN THE CIRCUIT COURT OF MERCER COUNTY, KY., ON INDICTMENTS FOR THE MURDER OF JOHN ROTHWELL AND ALEXANDER H. MEEKS.

SPECIAL TERM, appointed by Act of Assembly, changing the venue from Jefferson to Mercer Circuit Court. Hon. JOHN L. BRIDGES, Judge. EDWARD J. BULLOCK, Prosecuting Attorney.

*Monday, March 4th, 1839.*

Pursuant to Act of Assembly\* passed in the Legislature of Kentucky on the 24th day of January, on petition of Messrs. Wilkinsons and Murdaugh, for a change of venue from Jefferson county to Mercer county, the trial of this important case was appointed to commence at Harrodsburgh on Monday, the 4th of March, 1839. On the appointed day, the Court being opened in due form, before Judge Bridges, the Counsel for the prosecution applied for time to collect the witnesses for the Commonwealth, most of those summoned not being in attendance. The Court required till next day for considering the grounds urged; and upon resuming, on the 5th, decided that all parties should be prepared to go to trial on the following Monday.

The intermediate time was employed by the prosecution and defence in collecting by summons or attachment the several witnesses, most of whom arrived at Harrodsburgh on Sunday evening, the 10th, by the stages; and next morning it was generally known that all parties were prepared and anxious for the trial.

SPECIAL TERM OF THE MERCER CIRCUIT COURT, held in Harrodsburgh, Mercer County, Ky., by act of Legislature changing the venue from Jefferson County—The Hon. John L. Bridges, Judge; Edw'd. J. Bullock, Esq., Prosecuting Attorney. The Hon. Benjamin Hardin assistant counsel, employed by the relatives of the deceased, Rothwell. Counsel for the Defence—the Hon. Judge Rowan, S. S. Prentiss, Colonel Robertson, Samuel Davis, John B. Thompson, Chas. M. Cunningham, James Taylor, and C. M. Wickliffe.

*First day of Trial, Monday, 11th March, 1839.*

The Court was opened by the crier in the usual form, precisely at 10 o'clock, A. M.; Dr. Wilkinson, Mr. Murdaugh, and their leading counsel, being present at the bar.

After a little delay it was intimated to the Judge that one of the defendants, Judge Wilkinson, was not in court, and probably would not be able to reach town till eleven o'clock, as information had been received that he had been obliged to wait in Louisville a few hours extra for an important witness.

\*See Appendix letter A.

The Court suggested a recess till 11 o'clock.

Judge Rowan begged leave before the order was made, to occupy the attention of the court for a few moments, for the purpose of withdrawing a motion he had made on a former day relative to the order in which the Counsel on both sides should address the Court. That point had been since adjusted between the Prosecution and the Defence.

The Court observed that the Counsel on both sides should of course adjust that matter between themselves.

Judge Rowan then stated that by arrangement the order of speaking to evidence would be for the Prosecuting Attorney to open the argument, Col. Robertson to follow, Mr. Hardin next, and then himself, (Judge Rowan,) and the Prosecuting Attorney to conclude.

The Court said there was no objection to that arrangement. The recess might now take place, with an understanding that when Judge Wilkinson reached town, notice should be given to the proper officers, that the Court might resume with as little delay as possible.

Judge Rowan intimated that on Judge Wilkinson's arrival, should any contingency arise rendering it important to the defence to make any change or addition of counsel in the order of speaking to evidence, he wished to make a reservation in favor of such change or addition. [This was understood as alluding to the probability that Mr. S. S. Prentiss had been employed by Judge Wilkinson, and would arrive with him for the purpose of addressing the jury.] The Court said it was a matter of arrangement between the counsel on both sides, with which the Court had no disposition to interfere. Mr. Hardin said he had made no concessions on that point. The subject here dropped, the Prosecuting Attorney merely repeating the order before mentioned in which the counsel on both sides should speak to evidence. The Court then took a recess.

Shortly after twelve o'clock, Judge Wilkinson arrived in a hack, accompanied by Mr. S. S. Prentiss of Mississippi and Gen. Chambers of Louisville.—They drove to Dr. Graham's, where Dr. Wilkinson, Mr. Murdaugh and several of their friends were stopping. It was by this time so late, that it was generally known the court would not resume till after dinner time.

At half past one o'clock, the court again sat; Judge Wilkinson, Dr. Wilkinson and Mr. Murdaugh being present, were recognized to save their bail. After the sheriff had called the jury pannel, the Court asked the gentlemen for the defence, if they were ready to proceed? Judge Wilkinson stood up and said, "I wish, sir, S. S. Prentiss to be called, as one of my counsel." Mr. Prentiss was called, but did not answer. "Do you know, Mr. Wilkinson," observed the Court, "where the gentleman now is?" "I do not, sir," replied Judge Wilkinson, "but a person is gone for him." After waiting nearly half an hour for Mr. Prentiss, the Court asked if the swearing of the jury could not be proceeded with, while waiting for Mr. Prentiss? To which the gentlemen for the defence answered in the affirmative, and the swearing of the jurors, individually, was commenced. The Court interrogated each juror thus—Are you a house-keeper of this county? Are you in any way related to the prosecutor, the deceased, or the defendants; either by marriage or otherwise? Have you heard any statements of the transaction from any persons professing to know the facts; or have you conversed with any of the witnesses on the subject? To these interrogations ten of the pannel answered in the negative; two answered that they had heard Dr. Graham speak of it, but had formed no opinion from his statements; six answered that they had heard Dr. Graham talk of the matter, after his return from Louisville, and that they had formed opinions; and four were peremptorily challenged by the defence without assigning cause. The prosecution made no challenges. Thus, twenty-two of the pannel were called; six of whom were set aside by the court for having already formed opinions; and four set aside by challenge from the defence. The ten passed, with the two who had formed no opinion from what they had heard, completed the jury, and were sworn to try both the indictments. The names of those accepted by both sides will be seen in the order in which they were subsequently called. The six who stated that they had heard Dr. Graham speak of the affray and that they had formed no opinions, were, Marbly, Bruce, Chapman, Colman, Thompson, and Curry; those challenged peremptorily by the defence, were—Cohoon, Randall, Jones, and Huff. C. Humphries and Jacob Vanarsdall were the two who had heard Dr. Graham speak of the matter but had formed no opinions.

Judge Rowan, previous to the reading of the indictments, addressed the court for permission to introduce Mr. S. S. Prentiss of Mississippi, a practicing lawyer at the head of the bar in his own state, and who now asked leave to practice in this court for the purpose of aiding in the present defence. The court assented, being satisfied of Judge Rowan's assertion; and ordered the clerk to swear in Mr. Prentiss, which was accordingly done.

The jurors sworn and called over by the clerk of the court, were—Benjamin Alsop, R. M. Davis, Buckner Miller, Robert Alexander, John Bowman, John Burton, Elijah Gabbott, John Bohan, John Adair, Elineazer McGoffin, Charles Humphries, and Jacob Vanarsdall.

The clerk of the court then read the two indictments, as follows:

The Commonwealth of Kentucky, Jefferson County, and Circuit Sct. December Term of the Jefferson Circuit Court, in the year of our Lord one thousand eight hundred and thirty-eight, the jurors of the Grand Jury, empannelled and sworn to enquire in and for the body of the said county of Jefferson, in the name and by the authority of the commonwealth of Kentucky, upon their oaths, present, that Edward C. Wilkinson, Gentleman, John Murdaugh, Gentleman, and Benjamin R. Wilkinson, Doctor of Medicine, late of the said county and circuit, on the fifteenth day of December, 1838, in the said county of Jefferson and state of Kentucky, with force and arms, feloniously, wilfully, and of their malice aforethought, an assault did make in and upon one John Rothwell, there being; and the said Edward C. Wilkinson, with a certain knife, which the said Edward C. Wilkinson then and there had and held in his right hand, the said John Rothwell in and upon the left side of the back, near the back bone of the said John Rothwell, and also in and upon the chest, near the collar bone and right lung of him the said John Rothwell, then and there, feloniously, wilfully, and of his malice aforethought, did strike, thrust and penetrate, giving to the said John Rothwell then and there, with the knife aforesaid, in and upon the left side of the back, near the back bone of him the said John Rothwell, two mortal wounds—one of said mortal wounds between the eleventh and twelfth ribs of the said John Rothwell, and of the length of four inches and of the depth of five inches; the other said mortal wound on and cutting through the seventh rib on the same left side of him the said John Rothwell, and of the length of five inches and of the depth of four inches; and also giving to the said John Rothwell then and there, with the knife aforesaid, one other mortal wound, in the chest of him the said John Rothwell, near the collar bone and near the right lung of him the said John Rothwell, of the width of one inch and of the depth of five inches; and that the said John Murdaugh and the said Benjamin R. Wilkinson, were then and there feloniously, wilfully, and of their malice aforethought, present, aiding, assisting, comforting, helping and maintaining the said Edward C. Wilkinson in giving to the said John Rothwell the said several mortal wounds, in manner and form aforesaid; of which said mortal wounds, the said John Rothwell, from the said fifteenth day of December in the year aforesaid, until the sixteenth day of the same month and year aforesaid, at the county and circuit aforesaid, did languish, and languishing did live; and on the said 16th day of December, in the year of our Lord 1838, aforesaid, at the county and circuit aforesaid, the said John Rothwell, of the said several mortal wounds aforesaid, did die. So the said jurors, upon their oath aforesaid, do say—that the said Edward C. Wilkinson, the said John Murdaugh, and the said Benjamin R. Wilkinson, then and there feloniously, wilfully, and of their malice aforethought, in manner and form and by the means aforesaid, did kill and murder the said John Rothwell, contrary to the form of the statute in that case made and provided, and against!

the peace and dignity of the commonwealth of Kentucky.

FR. JOHNSON,  
Commonwealth Attorney in and for the  
Fifth Judicial District.

A copy, attest:  
PHIL. T. ALLIN, Clerk.

The Commonwealth of Kentucky, Jefferson county, and Circuit Sct., December Term of the Jefferson Circuit Court, in the year of our Lord 1838, the jurors of the Grand Jury, empannelled and sworn, in and for the body of the said county of Jefferson, in the name and by the authority of the commonwealth of Kentucky, upon their oaths, present—that John Murdaugh, Gentleman, Edward C. Wilkinson, Gentleman, and Benjamin R. Wilkinson, Gentleman, late of the said county and circuit, on the fifteenth day of December, 1838, in the said county of Jefferson and state of Kentucky, with force and arms, feloniously, wilfully, and of their malice aforethought, did make an assault in and upon Alexander H. Meek, there being; and the said John Murdaugh, with a certain knife, which he the said John Murdaugh then and there had and held in his left hand, the said Alexander H. Meek, in and upon the right side of the belly, between the hip bone and the naval of him the said Alexander H. Meek, then and there feloniously, wilfully, and of his malice aforethought, did strike, thrust and penetrate, giving to the said Alexander H. Meek, then and there, with the knife aforesaid, in and upon the right side of the belly, between the hip and the naval of him the said Alexander H. Meek, one mortal wound, of the breadth of one inch, and of the length of six inches, and of the depth of six inches—of which said mortal wound the said Alexander H. Meek then and there instantly died; and that the said Edward C. Wilkinson and the said Benjamin R. Wilkinson were then and there feloniously, wilfully, voluntarily, maliciously, and of their malice aforethought, present, aiding, assisting, helping, abetting, comforting, sustaining, and maintaining the said John Murdaugh in the felony and murder aforesaid, in manner and form aforesaid, to do and commit. So the jurors aforesaid, upon their oaths aforesaid, do say—that the said John Murdaugh, the said Edward C. Wilkinson, and the said Benjamin R. Wilkinson, then and there, feloniously, wilfully and maliciously, and of their malice aforethought, in manner and form aforesaid, did kill and murder the said Alexander H. Meek, contrary to the form of the statute in that case made and provided, and against the peace and dignity of the commonwealth of Kentucky.

FR. JOHNSON,  
Commonwealth Attorney in and for the  
Fifth Judicial District.

A copy, attest:  
PHIL. T. ALLIN, Clerk Mercer Circuit Court.

After reading each indictment the Clerk gave the prisoners in charge to the jury, in this form:

“Upon this indictment, gentlemen, the prisoners at the bar have been arraigned and have pleaded NOT GUILTY—and for their trial have thrown themselves upon God and their country, which country you are. You will therefore hear the evidence between the commonwealth and the accused, and a true verdict give according to the same; and if you find them guilty you will assess the punishment—if not, you will say so, and no more.”

Here fifteen witnesses for the prosecution were

sworn, and all but Mr. Redding ordered to withdraw into an apartment attached to the court.

Mr. Redding was then requested by Mr. Hardin to state what he knew of the transaction.

Mr. Redding. Some time in December Dr. Wilkinson called at my shop to purchase a suit of clothes and desired that they would be ready on the following Saturday. He then agreed for an overcoat, to be furnished the next week, and a pair of pantaloons, and said he would call at the appointed day for the suit of clothes.

[Col. Robertson here rose and observed to the court that on a former occasion, at the examining court, the counsel for the defence had suffered evidence to be gone into relative to a matter that had occurred some four or five hours previous to the transaction laid in the indictments. He could not conceive why it should now be attempted to connect these transactions. It would be established that the persons killed had not been present at what occurred at Mr. Redding's and had nothing to do with that affair. He therefore objected to the present investigation being allowed to embrace the affair at Redding's store, which formed the subject of another prosecution.]

The court said it was impossible at the present stage of the case to judge whether the two affrays had any connection or not; and there could not be any material objection to hearing the evidence now in progress, because if it subsequently turn out that there is no connection, it must be discarded by the jury, as far as it relates to the first affray; and whatever may be given in proof that is not legal evidence will then become harmless. The witness should be allowed to make his statement.]

Mr. Redding, resumed.—I had the clothes prepared, and folded them on the counter to send to the Galt House on the appointed Saturday evening.

Mr. Hardin. Where was this? You have a tailor's shop?

Mr. Redding. My shop is on the lower corner of Third and Main streets. There is but one square between my shop and the Galt House; but my shop is on the opposite side of Main street.

Mr. Hardin. In the city of Louisville?

Mr. Redding. Yes.

Mr. Hardin. Well; proceed with your statement.

Mr. Redding.—On that Saturday afternoon the Doctor came to my store about the clothes and I showed them to him. I asked him to try on the coat. He said, yes, and took off his old coat and tried on the new one, which he seemed to like very well. He merely remarked, as to the fit of the coat, that it was a little loose; but he had been sick and had fallen away, and hoped soon to fill it up.

He then took the things out of his old coat pockets and put them into the pockets of the new coat. He desired me to send the pantaloons and

vest to the Galt House, and at the same time handed me a \$100 Mississippi Bank Bill, which he requested I would hold over for a week or two, as he had information with regard to the arrangements of the Banks below, that the discount in a few days would be considerably reduced. He then went away, and in the course of an hour or so, returned, accompanied by two gentlemen, as I afterwards learned, his brother Judge Wilkinson and Mr. Murdaugh. When the Doctor came in the second time he said he would have to throw the coat on my hands as it did not fit and his friends had told him it was badly made—not fashionable; it was the Judge that said most about it's not being fashionable. I offered to get any alteration necessary made. He said no, that it was no coat at all. As soon as I found they were not disposed to take it, I said I would keep it. The Doctor then took out some money and said he would pay for the pantaloons and vest; which had been sent to the Galt House. The Judge said, no, do not pay for them, perhaps they would not fit—they would be like the coat. I thought he and Murdaugh had more to say against the clothes than the Doctor, who, I saw, would be pleased enough only for them. He said the law was, that if a coat did not fit it should be taken back. When the Judge interfered so much, I said it took more than one to judge a coat, and that I thought he had already said more than he ought. The Judge, who had been sitting near the stove, then jumped up and said he did not come there to be insulted. I remarked that I did not intend to insult him. He snatched up the iron poker at the stove and rushed at me with it, attempting to strike me, but I received the blows on my arm. Seeing that no one in the store was interfering, and hearing something about a Bowie knife, I thought to get them to the street where some one would be passing, and I seized the Judge and jerked him to the side door, near the corner, going into Third street. As I got him to the door, I think I slipped and fell, and the Judge fell with me. I thought the whole three were on top of me, and I struggled till I got the Judge under me, and I raised to keep off the Doctor, or to pull him down, when he tried to stab me with his knife, but was prevented by some one. The knife was like this now handed me. I think it is the same knife. The Judge still held on to the poker. I should have stated that when the Doctor drew his knife on me, a voice quite near, which I thought was Murdaugh's, cried out, kill the damned rascal. It was then that some one ran up and held the Doctor's arm. I threw them off, and got out on the pavement. Murdaugh was on the pavement, with his knife drawn. I picked up a brickbat, and told them I would whip the whole three if they would lay aside their weapons. Seeing no interference I returned into the shop, and the Doctor fol-

lowed me in with his drawn knife in his hand, demanding his \$100 bill. In the scuffle I had lost my pocket book, in which it was, but some one just then, who had picked it up, handed it to me, and I gave the Doctor his \$100 bill. They then went away with the knives drawn, and the Judge carried off the poker. Several persons came into the shop after they had gone, and some advised me to get them taken up. I did not at first want to do so, but after a little time was persuaded to go to the Mayor's office. I started for the Mayor's office, accompanied by Bill Johnson; but before this I went to Mr. Fulton's store and got a small dirk knife from Mr. Noel, which I put into my watch pocket. As we went to the Mayor's office we called at Vacaro's and Hymen's Coffee Houses, to enquire for the Marshal, Mr. Turner, or one of the police officers. Not meeting any of them we proceeded to the Mayor's office, and went up stairs to Mr. Pollard's room. I told the circumstances to Mr. Pollard, the Clerk of the Police Court, and told him I wanted a warrant. He asked me for the names. I said I only know for certain that one was Wilkinson, but I could get the names at the Galt House. Mr. Pollard said he could not give me a warrant without the names, but if I saw Mr. Turner I could get him to go with me and arrest them without a warrant. I told him that I would go to the Galt House for the names, and bring them to the office. We then started for the jail in search of Mr. Turner, and went round there, but could not find him, as he was not there. Bill Johnson went into the jail to enquire for Mr. Turner, and I staid outside on the pavement enquiring about the officers. Before Johnson came out I started off to Market street, and over towards Rothwell's corner. I saw Rothwell, my brother-in-law, standing at Dr. Bernard's office, and told him what had happened. I was going up Market street, and he went along with me. We tried as we went along to find Mr. Turner, or one of the City officers, but not being able to do so, we proceeded on to the Galt House. We went into the bar-room and I saw Mr. Sneed, who minds the bar, and asked for the Register, and the names of the three Mississippi gentlemen. In the meantime Mr. Everett came in, and I asked him if he would give me the names on paper. He very politely said he would, and immediately did so. I then got talking with Mr. McGrath, who was inside the counter, and told how I had been treated at my own store. In a short time Judge Wilkinson came into the bar-room, and came up to the counter to take a glass of water. I was leaning on the counter, and said to him, "I think you are the gentleman that struck me with the poker in my own house to-day?" He observed that he was, and then said, "I will not quarrel or fight with a man of your profession, but if you interfere with me, or lay a hand on me, I'll kill you." As he said this he put

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his hand behind, as I thought, in his coat pocket for some weapon. I then called him a coward for coming to my house with two others to assault me; and I offered if he and they would lay aside their weapons, and come into the street or into a room, I would whip the whole three of them. He then walked backwards and forwards across the room, and I kept telling him what I thought of him. In a short time he passed out of the bar-room. He was gone but a little while when he and the Doctor and Mr. Murdaugh came into the bar-room. I saw the Doctor and the Judge behind, and Murdaugh came towards me, a little below where I stood at the counter. I remarked to him as he came up, that he was the man who had drawn his knife on me in my own shop. He said, he had understood that I had said, that he had drawn a Bowie knife on me, and if I did say so, I was a damned liar, or any one else that said it, told a damned lie. As he was saying this he threw up his hand with a drawn knife in it. I think I heard some one remark that he was the man, for he had seen him, but the fight then began so suddenly, and the crowd rushed so close together about Murdaugh and the others, that they were hurried past me, and I could not see what was doing. I know that Meeks was killed, but I did not see him killed. Mr. Rothwell came up when he heard the damned lie given, and pushed me back with his arms, which caused me to be outside the scuffle. A little while after that, I saw Judge Wilkinson, with a large Bowie knife in his hand; he came hurrying past me. The knife he had was like this; I think it is like the same knife. [Mr. Hardin had handed the knife to witness. It was probably from 8 to 10 inches long in the blade, two inches wide, heavy and shaped at the point like other knives of that name.] He came rushing by me with such a knife as this, apparently stabbing at several persons. By that time Holmes had Doctor Wilkinson down in the left hand corner of the room—the left hand as you face the fire.

The Judge went towards the door, and Meeks was lying in the opposite corner, between the counter and dining room, either dead or dying. I did not know him. The crowd in the left hand corner by this time was retreating into the passage, and making towards the stairs. I gathered up a chair and followed them, and was in the effort of striking with the chair, but fearing I might hit the wrong person, I did not make the blow, and I got towards the foot of the stairs, where I heard Mr. Oldham say, as if in answer to some one on the stairs, that he'd give the damned rascal a pistol, and a pistol was fired, but I did not then know whether by him or from above.

Mr. Hardin:—Mr. Redding, was the poker large enough to kill a person with a blow?

A. Yes, I should think it was.

Q. What did you observe of Rothwell in the passage?

A. He told me that he was very badly stabbed.

Q. You say you did not know Meeks, or that it was Meeks that was killed?

A. Some one—perhaps it was Mr. McGrath—remarked that a man was killed. I went towards the body, and saw it was dead. I did not know him.

Q. How long did Mr. Rothwell live?

A. Till next evening.

Q. He died in the city of Louisville?

A. Yes, at my house.

Q. Where did you first see Mr. Rothwell that evening?

A. I met him near Dr. Bernard's office, in Market street—he lived at the corner.

Q. Was he related to you?

A. Yes, he was my brother-in-law.

Q. Did you ask him to go with you to the Galt House?

A. I think I did not ask him to accompany me at all. He merely kept on with me when I told him what had happened.

Q. What object had you and he in going to the Galt House?

A. I went with no other design than to get the names of the three Mississippi gentlemen.

Q. What brought you to the Mayor's office?

A. I went to the Mayor's office for the warrant and for the City Marshal to arrest them.

Q. Why then did you return to the Galt House without the warrant?

A. Because I could not get a proper warrant without first going for the names. Not being able to get the names without going to the Galt House, I went there for them.

Q. Were you told of any other way in which they could be arrested?

A. Mr. Pollard told me that if I came across Mr. Turner, the City Marshal, he could arrest them without a warrant.

Q. Did you try to get the Marshal?

A. I enquired at the jail, at Mr. Vacaro's, and at another place, for Mr. Turner.

Q. When you went into the bar-room, did you tell Mr. Everett the object you had in demanding the names?

A. Yes; and Mr. Everett remarked it could not surely be Judge Wilkinson.

Q. You mentioned a dirk you had—did you display it at the Galt House upon any occasion that evening?

A. No; I never drew it from my watch-pocket.

Q. Was Mr. Rothwell in the room when you first spoke to Judge Wilkinson?

A. No; I do not think he or any friend of mine was present.

Q. Did you see the blow inflicted upon Rothwell that caused his death?

A. No; the crowd shut me out from seeing distinctly what was doing.

Q. Did you find one of the knives on the floor?

A. Yes; when the 'fray was over.

Q. Where did you next see these three knives together?

A. I called at the jail and asked Mr. Chenoweth if the knives were there. He said yes, and produced them.

Q. Was there blood on the three knives at the time?

A. Yes.

Q. Can you account for the blood being on them still?

A. I told Mr. Chenoweth at the jail to keep them with the blood on them, just as they were. He rolled them up in a piece of paper.

Q. What became of them since?

A. He gave them to me rolled up in paper, and I put them away in my trunk. [Here the jury examined the knives.]

CROSS-EXAMINED BY COL. ROBERTSON.

Q. Were either of the unfortunate men who lost their lives, at your house when the poker business commenced?

A. No, sir; I do not recollect seeing Mr. Meeks at my house at all—he might be there, but not knowing him, I have no recollection of seeing him. I am certain Mr. Rothwell was not there.

Q. Now, I beg you will be particular in answering me; are you sure neither was there?

A. I am certain that I do not know either was there. Mr. Meeks might have been there and I not know it.

Q. Did any one take part in it while it was going on?

A. I don't think any one but myself was engaged in that business.

Q. How long after that did the affray at the Galt House take place?

A. I could not say the time.

Q. Was it one, two, three, four, five, six or eight hours?

A. I cannot say exactly how long.

Q. Can you not say about what time?

A. A very short time after it happened I went to the Mayor's office—

Q. Never mind that now—say about what time did you go to the Galt House after the affray at your shop?

A. It was but a short time.

Q. Was it four or five hours?

A. Oh, no.

Q. Well, state about what time?

A. It was late in the evening—I suppose it was

from half an hour to an hour; I could not now tell. I started off a few minutes after the fight—

Q. I want to know the time between the fight at your house and the fight at the Galt House?

A. Well, you know the distance, Col. Robertson—

Q. It is not the distance, but the time I want to know?

Court. Say the time, sir.

A. Well, it could not have been an hour I think; it was between half an hour and an hour—I said that before.

Q. When you first started for the Mayor's office who was with you?

A. Mr. Johnson.

Q. Where did you meet Mr. Johnson?

A. He was in my shop after the difficulty—a good many had been in.

Q. Where did you and Johnson go?

A. We went to the Mayor's office together.

Q. Where did you part?

A. We parted at or near the jail; but I cannot exactly say where: I know he was not with me when I got on Market street.

Q. Well, when you next saw him, where was it?

A. It was at the Galt House.

Q. You say you got a knife?

A. Yes, a dirk.

Q. You borrowed it from Mr. Fulton's?

A. I borrowed it immediately after the first 'fray. It was a small dirk.

Q. Had it two edges, or one?

A. I do not recollect—I never took much notice of it—I do not even recollect pulling it out of the scabbard.

Q. For what purpose did you borrow that knife?

A. I thought, perhaps, these men might attack me—I knew they were armed and I was not.

Q. Who was with you when you borrowed the dirk?

A. No one was with me.

Q. Where did you see Rothwell first that evening?

A. I met him at Dr. Bernard's office, near Sixth street.

Q. Had you really no intention in going to the Galt House but to get the names?

A. No; none.

Q. Then why did you ask Mr. Rothwell to go with you; you could get the names yourself?

A. I did not ask Mr. Rothwell to accompany me; he went along unasked.

Q. When you entered the bar-room of the Galt House whom did you see there?

A. I saw Mr. M'Grath and one or two others.

Q. How long after you got the names was it till the Judge came in?

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utes—probably fifteen or twenty minutes—and then the Judge came in.

Q. Well; when he came in you were the first to begin the altercation, were you not?

A. I merely remarked to him that I believed he was the gentleman who had struck me with the poker in my own shop, and he said he did not wish to quarrel or fight with a person of my profession.

Q. Then it was, I suppose, that you exhausted the vocabulary of the English language in abusing him?

A. Why, yes, sir, I suppose I did. I told him very plainly what I thought of him.

Q. You called him some hard names, such as coward, and-so-forth?

A. I called him a coward, and other things that I don't now recollect—and said I would whip the whole three if they'd lay aside their weapons.

Q. Well, after this language did he molest you? What did he do?

A. He walked back and forward several times, and finally he went out.

Q. And what became of you?

A. I remained after.

Q. For what purpose? You had got the names.

A. I had no other business than expecting Mr. Turner, the marshal, would be along, and call in; I expected Mr. Turner or one of the officers would come in.

Q. How long was it before Judge Wilkinson returned?

A. A very short time.

Q. Was it five, ten, fifteen, or twenty minutes?

A. It might be five, ten, or perhaps fifteen minutes.

Q. Where was Mr. Rothwell?

A. I did not see him then.

Q. When did you see him afterwards?

A. I saw him next when he came up to push me aside.

Q. Had he not a stick?

A. I did not see any stick with him there.

Q. Did he not go to Mr. Monohan's and get a stick?

A. I did not see him have a stick, or know of his preparing himself with any thing of the kind.

Q. You and Rothwell went there together. Had he not a stick then?

A. I did not see one with him.

Q. Where was he when you got the names?

A. When we first went in he separated, and I did not see him till he came up to push me away.

Q. Did you see him on Doctor Wilkinson, when the Doctor was down?

A. I did not see him on Doctor Wilkinson at all.

Q. Did you see him use a stick in that room?

A. If he had a stick I did not know it; I never saw him use one there.

By Judge Rowan:—Have you not employed counsel in this case?

A. I have spoken to Mr. Hardin.

Q. Have you not employed him?

A. I spoke to him to attend to the case.

Q. Can you not say whether or not you have employed him?

A. Yes, I have.

Q. What fee are you to give him?

Mr. Hardin:—I have no objection to that being answered.

Judge Rowan:—What, sir, is the amount of fee you have promised?

A. Mr. Hardin demanded \$1,000, and I made no objection.

Q. Are you to give him any thing more?

A. No, sir; there is nothing more.

Q. No contingent addition?

A. No, sir—not any.

Q. After Johnson left you where did you see him next?

A. I do not recollect seeing him again till at the Galt House.

Q. When parting at the jail did you not agree to meet at the Galt House?

A. No, sir; there was no agreement of the kind.

Q. Did you make no agreement for him to bring any one with him?

A. No, sir.

Q. Did you meet him with any person on your way, and with whom?

A. No; not that I recollect.

Q. Did you see any one on your way down Market street?

A. Yes; on our way down I think we might have met Mr. Holmes and some one else. Mr. Johnson might have had some conversation with him; but I think I felt no disposition to talk just then.

Q. Is not Mr. Holmes a remarkably stout and large man?

A. I think he is a very stout man.

Q. With whom else did you meet him?

A. Mr. Wallace, I think.

Q. Any one else?

A. It appears to me there was another gentleman with him; but I am not positive.

Q. Did Mr. Johnson say nothing about how your friends ought to treat the Mississippians?

A. No, sir; not that I recollect.

Q. Was Mr. Holmes at the Galt House?

A. Not at first; but I saw him there afterwards with Mr. Halbert.

Q. Mr. Halbert is a large, stout man?

A. Yes; he is a very stout man.

Q. Were there any other large stout men there?

A. Yes.

Q. Was Mr. Oldham there?

A. Yes—I saw Mr. Oldham.

Q. You saw him fire the pistol?

A. I was not sure that it was he fired it, or that the shot did not come from above.

Q. Who else of your acquaintance was there?

A. Mr. Reaugh and several others might have been there.

Q. Was Mr. Monohan there?

A. Yes; I saw Mr. Monohan there—he stopped at the Galt House.

Q. Were any of these men in the house or passage while you were abusing Judge Wilkinson?

A. I do not know whether they were or not. I did not see them, if they were.

Q. Was not your object in abusing Judge Wilkinson to bring on a quarrel, that you might chastise him?

A. No, sir. If that had been my object I should have proceeded otherwise.

Q. Do you recollect any of the persons named asking you any questions about the Judge?

A. I do not recollect—I think not.

Q. Why did you stay after the Judge retired?

A. I expected Mr. Turner or Mr. Pollard would come up.

Re-examined:—Q. The bar-room opens into the dining-room?

A. Yes.

Q. Do the boarders come into the bar-room when waiting for supper?

A. They do; but there are two ways of going into the supper room.

Q. Were not many persons assembled waiting for supper?

A. I do not know.

Q. Did you see these three gentlemen when they entered the bar-room?

A. I did not see them immediately when they came in. I saw them when Mr. Murdaugh advanced.

Q. Did you make any observation respecting them when you first saw them together?

A. I think I remarked, that I believed they were all three on me.

Q. Which of them did you see first?

A. I saw Mr. Murdaugh first—the others after him.

Q. What was the first thing you saw Rothwell do?

A. When Mr. Rothwell came up towards us he put his arm so as to push me back.

Q. Did you see the Doctor knocked down by Mr. Holmes?

A. I did not see Mr. Holmes knock the Doctor down; I saw Mr. Holmes over him when he was down.

Q. What in particular did you observe about them when they came in?

A. I think the Doctor had his hand in his pocket, and the Judge too had his hand in his pocket.

Q. How was Mr. Meeks stabbed?

A. I did not see Mr. Meeks when he was stabbed; the crowd cut me off from seeing him; the whole occurred so quick that I had not time to do any thing.

Q. When the crowd got past you what did you observe of Meeks?

A. Meeks, when I next saw him, was lying on the floor: he was about half way between the dining room door and the counter, nearest the counter, when Mr. McGrath asked me who was the man that was killed.

Re-Cross-examined:—Q. Which of your friends had a stick, a sword cane, or knives in the scuffle?

A. I do not recollect any thing of a stick, or sword cane, or of any knives but those I have mentioned.

Q. Well; who had the sword cane?

A. I saw no sword cane.

Q. Who stabbed Judge Wilkinson in the back with the sword cane?

A. I did not see any one do it.

Q. Did you see Judge Wilkinson use his knife?

A. I saw him stabbing at several persons as I thought. I saw him make one stab at Mr. Rothwell.

Q. Was it your friends that pursued Judge Wilkinson into the passage?

A. I suppose it was—I was myself after him.

Q. Where was it you saw him stab at any one?

A. I think it was near the foot of the stairs.

Q. It is a considerable distance from the foot of the stairs to the bar-room?

A. Yes.

Q. Twenty or thirty feet?

A. May-be not quite so far.

Q. You say you have no recollection of seeing Meeks before that evening?

A. No; none that I can remember.

Q. Did you not see him as you went up to the Galt House?

A. No; I do not recollect stopping to speak to any one; but might have made some remark to Mr. Hill, as I passed a store where he stood.

Q. Mr. Horace B. Hill?

A. No; it was young Mr. Hill.

Q. Can you account for so many of your friends being there assembled that evening?

A. I don't know that I can account for it; Mr. Holmes told me that Mr. Halbert had invited him to go there to have some drink.

Q. (By Judge Rowan.) Who advised you to get out process against these gentlemen?

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A. I do not recollect; a good many advised me; Johnson was one.

Q. You stated that you did not see Mr. Meeks till at the Galt House?

A. I stated that I did not recollect seeing him till then; he was a man with whom I was not acquainted; I might have seen him frequently, but not to know him or to recollect him.

Q. Did you or did you not see him at your house?

A. He might have been at my house, but I did not notice him. I have often heard of Mr. Meeks, but do not recollect to have ever seen him to know him before that.

Q. When Mr. Murdaugh came into the bar-room had he on a great coat?

A. Yes; a drab-colored great coat.

Q. Holmes did not live in the neighborhood of the Galt House?

A. No, sir; Holmes is a river man.

Q. (By Mr. Hardin.) When Holmes is in town he is frequently with Mr. Halbert, I believe?

A. Yes; very frequently.

Q. (By Col. Robertson.) How do you know that?

A. I am acquainted with both and have seen it.

Q. Mr. Johnson does not live near the Galt House?

A. He has a cellar on Water street and I believe a couple of stalls in the market.

Q. You say you had borrowed the dirk in case you were attacked?

A. Yes, sir.

Q. How came it you did not use it?

A. I did not draw it at all; I do not know that I thought of drawing it. I had not been in the habit of carrying any thing of the kind, or I might have thought of it.

Q. And, had you no means of defending yourself?

A. I picked up a chair.

Q. Had the dirk any scabbard?

A. It had a small metal case—I did not pay much attention to it.

Q. Did you enquire at Mr. Fulton's the price of that dirk?

A. I think not.

Q. You do not know the price then?

A. I do not.

Re-examined by Mr. Hardin:—Q. I understand there was no arrangement made by you with any of the gentlemen to meet at the Galt House?

A. There was none.

Q. Did Judge Wilkinson wear an over coat?

A. I think he wore a frock coat.

Q. Did Mr. Marshall Halbert board at the Galt House?

A. Yes.

Q. Do not people congregate in the bar-room of the Galt House before supper?

A. Yes, they generally do.

Q. There was no condition in respect to the fee you were to give me?

A. No condition whatever.

Q. Were you urged to employ counsel by the mother and sisters of Mr. Rothwell?

A. Yes, it was at their solicitation.

Q. (By Prosecuting Attorney.) When you say you remained at the Galt House waiting for Mr. Turner, would you have known where to go for him had you left?

A. No, I would not have known where to go—I did not know where Mr. Turner lived.

Q. Would not any other officer have answered?

A. Yes, if any other had come in.

Q. Had you any intention in addressing Judge Wilkinson at the Galt House to revive the quarrel?

A. It was not my object to revive the quarrel.

Q. When you spoke to Murdaugh and he said if you said so you told a damned lie, who told him *he was the person*?

A. I think it was Meeks.

Q. What other weapons did you see for assaulting them but the cowhide?

A. I saw no other weapons, nor any other after but the pistol with Oldham.

Q. Was there any demonstration on the part of any one to induce them to think they would be assaulted?

A. None that I know of.

Re-Cross-examined:—Q. Is not Mr. Turner a married man with a family?

A. Yes, sir; so I understand.

Q. Does he not reside in Louisville?

A. Yes, sir.

Q. Could he not have been found at his house?

A. I did not expect he would be at home at that time.

Q. When you remarked to Judge Wilkinson, "You are the gentleman who struck me with the poker," what object had you in the remark, unless to renew the quarrel?

A. I did not say any thing more to him till he said he would not quarrel with a man of my profession.

Q. You say you staid to converse with your friend, Mr. McGrath. Holmes, Halbert, and the rest of your friends remained from some other motive?

A. I don't know how many remained, or for what.

Q. Mr. Rothwell never suggested to you the propriety of "giving them a little throwing over to teach them better manners"?

A. No, sir.

Q. Nor Mr. Johnson?

A. No, sir.

Q. Nor Mr. Meeks?

A. I don't say that I knew Mr. Meeks at all, sir?  
 Q. How long did you stop with Mr. Rothwell when you first met him on Market street?

A. I made no stop at all at Rothwell's. I merely told him what occurred and what I was about to do in respect to getting their names?

Q. What remarks did he then make?

A. He said that was proper to do.

Q. (By Col. Robertson.) Did you feel cool and in good humor?

A. I did not feel in very good humor but I kept cool.

Q. Well; you were very cool and almost in a good humor?

A. I was collected enough, but a good way from being in a good humor.

Q. By Mr. Hardin:—Did Holmes, or Johnson, or the others accompany you when you went to the Galt House?

A. No, sir; no one but Mr. Rothwell.

Q. Who interfered when you were talking to the Judge?

A. No one.

Q. Where did you see Oldham first that evening?

A. The first I saw of him was near the foot of the stairs.

Q. There are two passages, one from across the door of the bar-room, and the other from Main street; in which did you see Oldham?

A. It was in the passage near the foot of the stairs—they meet there.

Q. For the Defence:—You say you were cool and collected; did you see that blow given to Mr. Murdaugh? [pointing to the mark of a blow on the side of Mr. Murdaugh's head.]

A. No, sir; I did not see it at all.

Q. By Judge Rowan:—When you called at Mr. Rothwell's how did you invite him to accompany you?

A. I did not invite him; I told him what had happened and what I was going to do. I did not stop; I only mentioned it to him.

Q. The jail is nearer to Jefferson street than to Market street; why did you not take the shortest way by the Mayor's office, instead of going round by Market street?

A. Because it is shorter to go by Market street to the Galt House than by the Mayor's office.

Q. When you were at the Mayor's office, was it not shorter to go from that to the Galt House than by Rothwell's corner, if you had nothing to get but the names?

A. I went to the jail to look for Mr. Turner; when there, it was shorter to go by Market street than to return by the Mayor's office.

Q. Was not Mr. Rothwell a large stout man?

A. Yes; he was a tolerable large and stout man.

Q. By Col. Robertson:—You have spoken of a knife being found on the floor; do you know whose knife it was?

A. No, I do not know whose knife it was; I only picked it up.

[Witness allowed to retire.]

MR. CRAIG CALLED AND EXAMINED.

Mr. Hardin:—Mr. Craig, state what you know of this transaction.

Mr. Thomas Craig:—I was in Mr. Redding's shop on the day the affray happened which led to the unfortunate occurrence at the Galt House. It was on Saturday, and Dr. Wilkinson called and tried on part of the suit of clothes made for him, not seeming to make any objection to the coat. He left a \$100 bill, and he also left his measure for an overcoat, and said that he would redeem the \$100 bill, and pay for the whole of the clothing. He took away the coat on him, and returned in about an hour and said he would leave the coat on Mr. Redding's hands. He said he found a deficiency under one arm. The Judge made a great many objections to it. He said it was not a fashionable coat; it had not a proper collar; and that it was no coat at all. I went myself up to the mirror with them to look at the fit of the coat.

The Judge came round to the stove and sat by it. My attention was not directed to the conversation, and I cannot recollect what was said; but the coat was returned, and the Doctor took out money to pay for the pantaloons and vest, when the Judge remarked that he ought not to pay for them till he would know how they might fit—that they might be like the coat. They came towards the back part of the stove, and the Judge sat on a high stool at the stove. The Doctor was near the cutting board. When the Judge made the remarks about the pantaloons, Mr. Redding observed he had more to say about them than he ought; upon which Judge Wilkinson picked up the poker and struck Mr. Redding; and Mr. Redding jerked him to the side door. Mr. Redding, after being out on the street with them, picked up a brickbat. He said he would whip the whole three if they would lay by their weapons. I saw Mr. Murdaugh standing on the edge of the pavement with his knife drawn in this position, [showing position.]

Q. By Mr. Hardin:—Did you see a knife with Doctor Wilkinson in the shop?

A. No; I did not see the Doctor have any knife before he left the shop.

Cross-Examined:—Q. Was there not a damned lie given before Judge Wilkinson picked up the poker?

A. I did not hear any.

Q. Did not Mr. Redding walk up to Judge Wilkinson with his arms akimbo in an offensive manner before the Judge picked up the poker?

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A. I did not see any thing of the kind.

Q. What were the positions of the parties at the time?

A. The Judge was sitting and Mr. Redding standing, when the Judge picked up the poker.

Q. Repeat as nearly as you can the exact words which led to this.

A. The Judge remarked that the law was, that when the clothes did not suit they were to be thrown on his hands. Mr. Redding said to the Judge that he had rather more to say about it than he ought. The Judge said he did not come there to be insulted. Mr. Redding appeared to me to be very mild.

Q. Is this all you heard pass between them?

A. I heard the conversation going on, but did not pay much attention to it. I suppose I heard all that passed between them, but was not paying any attention.

Q. How far were you from them?

A. About as far as from this to you.

Q. Did you not hear Mr. Redding say, "who are you," or "you are too officious"?

A. I did not.

Q. What time of the day was it?

A. It was after dinner.

Q. What hour?

A. It might be between three and four o'clock; perhaps it might be near three, or between that and four.

Q. Which was it, nearer to three than to four?

A. I cannot exactly say.

Q. Were there many people about the shop during the difficulty?

A. There were not many at the shop till after the affray; after that several were there, and advised Mr. Redding to take the law of the Mississippi gentlemen.

Q. Mention those that were there?

A. I think Mr. Holmes was there; I cannot well say the others, being pretty much of a stranger at Mr. Redding's. I did not then know Mr. Holmes.

Q. Did you see Mr. Johnson or Mr. Meeks then?

A. I did not notice Mr. Meeks, nor did I then know Mr. Johnson.

Q. When some of those present advised Mr. Redding to take the law of them; what reply did he make?

A. He said he did not like to sue them.

Q. Did not some one, or several, recommend him to take redress himself with his friends?

A. None that I ever heard.

Q. When the Judge struck at Mr. Redding, did the Doctor try to separate them?

A. I thought he did, but could not say whether he intended to separate them or to assist his brother.

Q. Could you not tell by his approach whether he meant to separate them or not?

A. It was difficult to tell, because Mr. Redding so instantly made a rush out of the door when he caught the Judge that there was no time to see what the Doctor meant.

Q. Did the Doctor touch either of them?

A. He did not put his hands upon Mr. Redding; but he put his hand, I thought, upon his brother.

Q. Did you see any knife with the Judge on that occasion?

A. I did not see him draw a knife in that affair.

Q. Did you see any knife at all?

A. I cannot say that I saw any knife but with Mr. Murdaugh, after Mr. Redding had picked up the brickbat.

Q. Did you see any one but Judge Wilkinson strike Mr. Redding?

A. No; I did not see either of the others strike him.

Q. By Judge Rowan:—Did not various persons come into the shop before Mr. Redding went to the Mayor's office?

A. Yes, several.

Q. Was Meeks among them?

A. I do not recollect seeing Mr. Meeks.

Q. Where was Mr. Redmond?

A. He was outside the door. I think I saw him when I went to the door: the Judge and Mr. Redding had been separated, and I saw Mr. Redding pick up the brickbat.

Q. Was not Mr. Redmond in the house any part of the time?

A. I think not—but he might have been, without my seeing him. There is a projection which might have prevented me seeing him from where I sat. I did not observe Mr. Redmond if he was in the shop.

Q. How much of the room was hid from your view by the projection?

A. About one fifth. I might have seen Mr. Redmond, but am not certain.

Q. Do you live with Mr. Redding?

A. Yes; I live with him yet, and work in his shop.

Q. Did you not hear Mr. Murdaugh say, "stop this fight"?

A. No, sir.

[Witness allowed to withdraw.]

W. WEAVER, A BOY, CALLED AND EXAMINED.

Mr. Hardin:—State what you know of the affray in Mr. Redding's shop.

W. Weaver:—I was in Mr. Redding's shop, and saw the gentlemen talking about the coat. Mr. Murdaugh said he did not like the coat: the other said he did; one of them, the Judge, said he'd be damned if it did not take more than one to judge of the coat. Judge Wilkinson called out for his knife. Doctor Wilkinson had a white-handed knife. Mr.

Redding pulled Judge Wilkinson out of the door and the Doctor followed. I think that knife on the table is the same I saw with the Judge when he came in from the street to get back the \$100 bill.

Q. Which of them entered with the knife to demand the \$100 bill?

A. It was the Judge.

Q. Who hallooed for the knife?

A. It was the Judge.

Q. Are you sure it was not Redding?

A. I heard some one halloo for the knife—it might be Redding.

Q. Were these gentlemen in the shop when you first went in?

A. Yes.

Q. Whom did you first tell about this affair?

A. I told my uncle.

Q. What brought you into Redding's shop?

A. I went there about business—I went there for money.

Cross-Examined:—Q. What passed between Judge Wilkinson and Mr. Redding, when the coat was taken back?

A. When the Judge told the other men he would not take the coat, Mr. Redding said he did not insist on him taking it, and then Judge Wilkinson said that Mr. Redding had no right to judge. Mr. Redding said he had no right. I believe Mr. Redding said he meddled more about the coat than the Doctor did. Mr. Redding said something like the Judge making himself damned meddlesome about the matter. Doctor Wilkinson pulled out money to pay for the pantaloons and vest.

Q. Did you see those knives since that period?

A. I saw one of them with Mr. Turner.

Q. Did you see them with Mr. Redding?

A. No; I did not.

Q. Did you give any testimony at the examining court?

A. No, sir.

Q. Do you know why you were called up now to testify?

A. I do not know.

Q. Is this the Doctor or the Judge? (pointing to the Doctor.)

A. The Doctor, I think.

Q. Is this the Judge?

A. It is.

Q. Was it he came in with the drawn knife to demand the \$100 bill?

A. Yes, it was.

Q. Who were the other persons in the store besides yourself?

A. No one but the Doctor, Judge Wilkinson, Mr. Murdaugh, Mr. Redding, and Mr. Craig, except another boy with me. One went in and went out again before the fight began.

Q. Do you know any one named Redmond in Louisville?

A. I do not.

[Witness allowed to withdraw.]

The Court said it was time to close for the night, which was assented to by the gentlemen of the bar.

Court:—What do you propose to do with the jury?

The counsel for the defence said they had no objection to the jury being allowed to retire, and have proper accommodations.

Court:—Very well; let the Sheriff take charge of the jury, and provide for them at a tavern. You gentlemen of the jury, will take care not to converse with any person on the subject, or express any opinion concerning this cause, or to allow any one to address you about it, during your absence from Court.

Adjourned to 8 o'clock next morning.

## SECOND DAY.

*Tuesday morning, 12th March.*

Pursuant to adjournment the court sat this morning at eight o'clock, and the Clerk having read the minutes of the former day's proceedings called the names of the jurors, and the Sheriff was directed to remove the witnesses for the prosecution out of hearing of the court.

Col. Robertson then recalled and examined Mr. Redding.

Q. You have prosecuted these gentlemen for the affray in your own house, separately, for your own benefit?

A. Yes, sir; I have sued them for damages.

Q. Is there a coffee-house kept in your house?

A. My shop is on the corner.

Q. There is a coffee-house in the same building?

A. There is a coffee-house on Pearl street, next above my shop, in the same building.

Q. Who owns that coffee-house?

A. It belongs to my brother and me; the coffee-house is attended by my brother.

[Witness allowed to retire.]

MR. SAMUEL REDMOND CALLED AND EXAMINED.

Mr. Hardin:—Mr. Redmond go on and tell all that you observed at Mr. Redding's store that evening.

Mr. Redmond:—I worked for Mr. Redding and went to his store that Saturday afternoon to draw some money. I saw these gentlemen at the store. The first of the difficulty I saw, was Mr. Redding pulling the Judge out of the door. He fell and turned under, the Judge being on top; but Mr. Redding succeeded in turning the Judge under, and the Doctor immediately attacked Redding with his knife, and Mr. Murdaugh cried out, "Kill the damned son of

a bitch;" just as the Doctor was in the act of stabbing Mr. Redding, and the knife was within three or four inches of his breast, I seized the Doctor's arm and said, "Don't do that if you please;" and then Murdaugh said, "Part them." Redding then got out into the street, with one shoe off and the other on; and at the same time Murdaugh was on the pavement with his knife drawn.

Q. When you first saw the Doctor approaching Redding and the Judge, had he his knife drawn?

A. I supposed he had it in his hand and drawn.

Q. What induced you to interfere?

A. I seized the Doctor's arm to keep him from stabbing Mr. Redding.

Q. What were the relative positions of the parties after you seized the Doctor's arm?

A. The Doctor raised up and Murdaugh was on the pavement with his knife drawn.

Q. Which followed Redding into the store?

A. The Doctor; he entered the store with his knife drawn in his hand, demanding his \$100 bill.

Q. Well; what followed?

A. Mr. Redding had dropped his pocket book, in the scuffle, and I picked it up and carried it in to him; he then took out the \$100 bill and returned it to the Doctor, saying, "Here's your \$100 bill."

Q. What color was the handle of the knife you saw with the Doctor?

A. It was white; and so was that of Mr. Murdaugh.

Q. Did the Judge remain with the others?

A. He had gone over to the other side of the street and then returned as if to persuade one of the gentlemen to go away. They all then went off, two with their knives drawn, and the Judge with the poker.

Cross-examined:—Q. Where had you been before they fell into the street?

A. I had been in the back shop; I came to the store to get money.

Q. Were you living with Mr. Redding then?

A. Yes; I worked for him.

Q. Are you in his employment now?

A. No, I am not.

Q. Why did you stay at the door?

A. I was only staying to get the money. I had left the back shop to go to the front shop to get the money.

Q. Had you not stated times for getting your money?

A. No, I had none; whenever I asked for money I got it. I had finished my job and went to get my pay.

Q. Were you in the shop after the affray was over?

A. Yes.

Q. Did you not say in the examining court that you were in the shop when the affray began?

A. I did not say so.

Q. Did you not say at the examining court any thing about offensive language you had heard?

A. No, I did not.

Q. Did you not, in fact, hear Mr. Redding give the damned lie in the shop?

A. I was not in the shop then and did not hear Mr. Redding give the damned lie at all.

Q. Did you or did you not say so at the examining court?

A. I did not say so there or any where else.

[Here Judge Rowan stated to the court that the minutes taken at the examining court had been transmitted through Mr. Redding's hands to the Prosecuting Attorney of this court and it was only in courtesy and through the politeness of the Prosecuting Attorney that the counsel for the defence had been allowed the perusal of them. The Prosecuting Attorney had now withdrawn these minutes and he (Judge Rowan) now demanded it as a public document.

The court said it was probable the right was regulated by Act of Assembly.

Mr. Bullock, the Prosecuting Attorney, said he did not stand upon that point; but the reason he withdrew the minutes was that they were neither minutes of evidence nor even a synopsis of what had taken place at the examining court. They appeared to be nothing but a few memorandums made for the use of the Grand Jury but so inadequate for any purpose in a final trial, that, finding they could not be available to either side, he had decided upon not using them on the prosecution nor yielding them to the defence. Here the matter dropped, the understanding appearing to be that the minutes were not perfect enough to use in evidence.]

MR. REDMOND IN CONTINUATION.

Q. Who went with you to Mr. Redding's store?

A. I don't recollect that any one was with me.

Q. Which, did you say, attempted to stab Mr. Redding?

A. It was Doctor Wilkinson.

Q. Well, now, how can you be sure that was his design?

A. All I know, is, that he would have stabbed him had I not arrested his hand.

Q. Had not Mr. Redding a pair of shears in his hands defending himself in the shop?

A. I did not see any such thing.

Q. Where were you when Doctor Wilkinson was attacking Redding?

A. I was on the pavement.

Q. Was not Mr. Redding by his superior strength near turning over Doctor Wilkinson?

A. Yes; I thought so.

Q. Did he attempt to use the knife till he was in danger of being turned under?

A. I did not see the knife till the Doctor had it in the attitude of stabbing; Mr. Redding raised up a little, keeping the Judge under with one arm, and with his other arm round the Doctor's neck trying to pull him down.

Q. I wish you to be as particular as possible in describing this.

A. Well, I have done so already. Mr. Redding had Judge Wilkinson down and reached his arm to pull down the Doctor, when the Doctor raised his knife to stab Mr. Redding as he was about to be pulled under by Mr. Redding. [Here witness showed the manner.]

Q. Where was the Doctor's knife till then?

A. I did not see the knife till that time with the Doctor.

Q. What appeared to be his intention when he came up?

A. It appeared to be his design to pull Mr. Redding off his brother.

Q. Was it not when Mr. Redding had him nearly turned under that he drew his knife?

A. As Mr. Redding was trying to pull him down, the Dr. raised the knife to stab him.

Q. Could you recognize the knife?

A. I think it is one of those present in court.

Q. Was it not at that moment that he drew and opened his knife?

A. He must have had it drawn and open before, because he could not have got his other hand disengaged to assist in opening it when Mr. Redding had hold of him.

Q. Which of these was the knife?

A. I think that was it: the other is the one Mr. Murdaugh had.

Q. Where was Mr. Craig?

A. I saw him after I went into the shop.

Q. When these gentlemen were in the shop talking where was Mr. Craig.

A. Mr. Craig was at his board.

Q. Did you see a boy named Weaver there?

A. Yes.

Q. What hour was it when the affair happened?

A. I think it was between three and four o'clock.

Re-examined:—Q. Did you see the Doctor taking out his knife?

A. No; I saw him with it drawn in his hand when he made the stab at Mr. Redding.

Q. Did you see Mr. Murdaugh when he cried out "Kill the damned rascal" or some such word?

A. Yes.

Q. Was there any attempt made by the Doctor to take his brother off when on the top of Mr. Redding?

A. No.

Q. Did you see any indication from Mr. Murdaugh to take Judge Wilkinson off Mr. Redding?

A. No, not any.

Q. Did you see Mr. Redding under Judge Wilkinson?

A. Yes; when they fell on the pavement out of the door, I saw Judge Wilkinson uppermost. Mr. Redding fell underneath when they fell out of the door.

Q. Did they put up their knives when they raised up?

A. The Doctor and Mr. Murdaugh had their knives drawn after that when out on the pavement.

Q. Where was the Judge then?

A. He returned from the street to the pavement and took one of the gentlemen by the arm to get him away.

Q. When they went off were they still armed?

A. They went with the knives in their hands.

Q. Did you see Mr. Redding take up a brick bat when he got disengaged?

A. Yes.

Q. Was this before or after the knives were drawn?

A. The knives were drawn before Mr. Redding picked up the brick bat.

Q. Where was Mr. Murdaugh when he called out "Kill the damned rascal"?

A. Mr. Murdaugh stood on the pavement near the street when he said "Kill the damned son of a bitch."

Q. It was not till you caught the Doctor's arm, so that he could not make the blow, that Murdaugh advised you to "Part them, don't let him kill him"?

A. Yes; I kept hold of the Doctor's arm, so that he could not make the blow.

Q. Was it all in the same breath that he said "Kill the damned rascal," and "Part them—don't let him kill him"?

A. No, not in the same breath—there was a little time between the expressions.

MR. JOHN PARIS, EXAMINED.

Mr. Hardin:—Mr. Paris, state to the Court and the Jury what you know of this affair.

Mr. Paris:—I was passing Mr. Redding's store, after dinner, when I heard some fuss and stopped to look in. When I heard the fuss at first I was in Main street and I went round the corner into Third street, when I saw Mr. Redding fall out of the side door with one of the gentlemen. Another gentleman had a knife and said he would kill him. I said "Don't kill him," and a young man then caught his arm. After this Mr. Redding picked up a brick bat and one of the gentlemen said "Give me my money." He followed Redding into the shop and got the \$100 bill. They returned to the street, and as Redding got to the door he said he would whip the whole three of them if they would put away their knives.

Q. Which of the gentlemen had the knife when you first saw them?

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A. I think it was the gentleman they called the Doctor.

Q. What sort of knife was it?

A. It was just such a knife as one of them— [pointing to a knife.]

Q. Who caught the Doctor's arm?

A. I do not recollect the young man's name who caught the Doctor's arm.

Q. Look here, [pointing to the witness' bench,] if you can recognize the person?

A. I think that young man, [pointing to Mr. Redmond,] is the person.

Q. Which way were you going when your attention was first attracted?

A. I was coming up Main street when I heard the scuffle and then turned the corner into Third street.

Q. Did you see Mr. Murdaugh; and what was he doing?

A. I saw Mr. Murdaugh there; but he was not taking any part in the affair.

Q. Was he not also armed with a knife?

A. I saw him after on the pavement with a drawn knife.

Cross-Examined:—Q. Which of them said "Damn you, I'll kill you"?

A. It was the gentleman with the knife.

Q. You made some remark to him?

A. I said "don't kill him."

Q. Then he must have had time to stab Redding if you had time to ask him not to do it?

A. No, he had not time to make the stab when his arm was caught.

Q. While he was saying the words "I'll kill you" had he not time to do so if he intended it?

A. I cannot say whether he had time to kill him in the saying of the words.

Q. What occurred after they got up?

A. All three went into the shop, and when they came out Mr. Redding came to the door and said "Lay down your damned knives and I'll whip the three of you." "No," said Mr. Murdaugh, "I'd rather cut your damned guts out." With that one of the gentlemen came up and took him away:— they went off with their knives drawn.

Q. What hour was it?

A. It was between three and four o'clock.

Q. Did you hear Mr. Redding say there were "fifty or five hundred on him"?

A. No; I did not.

Q. Or Mr. Murdaugh say "it was a damed lie"?

A. No, I heard nothing of that sort.

Q. Are you positive as to the words used by Murdaugh when Redding offered to whip the three of them?

A. I think Redding said, "If you are gentlemen, lay down your knives and I'll whip the three of you?"

Mr. Murdaugh replied, "I'd rather cut your damned guts out."

Q. Are you a coffee-house keeper?

A. Yes.

Q. What were the relative positions of the parties when the Doctor said "I'll kill you"?

A. I cannot say exactly, being frightened at the time. The Doctor was standing up; Mr. Redding standing up, but rather leaning back; and Judge Wilkinson standing up.

Re-Examined:—Q. Were they so that you could see them distinctly?

A. No; they were crowded or huddled up and I could not well tell how their positions were.

Q. Were you at the examining court?

A. I was, but not examined.

Q. Did any one ask you any questions about what you could tell?

A. Col. Robertson asked me some questions.

Q. (For Defence.) When you say they were huddled together do you mean to say they were on their feet?

A. Yes.

MR. EVERETT CALLED AND EXAMINED.

Mr. Hardin:—State, Mr. Everett, what you know of this transaction.

Mr. Everett:—Mr. Redding applied to me for the names of three Mississippi gentlemen, one of which he said was Wilkinson. I gave him the names. I called Mr. Redding to the window and asked him the nature of the difficulty. He told me about it— Shortly after I went out, and in ten or fifteen minutes I was told by Mr. Snead, that there was likely to be some difficulty, upon which I returned and saw Judge Wilkinson walking up and down the bar-room very much excited. Redding was addressing the Judge. I determined to go round and get the Judge away, and going into the passage towards the bar-room door, I met the Judge coming out of the bar-room. I asked him to go with me to his room, which he did. We found his brother and Mr. Murdaugh there. The Judge asked me if I had pistols; I said no, and he then asked me to get him some. I said I would try, and I went down to the bar. In about ten minutes I saw the Judge enter the bar-room, and I then put on my hat and walked out of the house.

[Here Mr. Everett was asked to make a drawing of the bar-room, which he did, and it was examined by the jury and some gentlemen of the bar.]

Q. When you went up stairs with the Judge who was in the room?

A. We found the Doctor and Mr. Murdaugh there.

Q. What passed between the parties?

A. The Judge told them what had occurred below in the bar-room.

Q. He then asked you for the pistols?

- A. Yes; it was then he asked for the pistols.
- Q. What part of the house is the room in?
- A. It is on the first story, above, room 35.
- Q. Does the supper bell be rung in that part of the building?
- A. It is rung along the passage and then down the stairs.
- Q. Had the bell been so rung at or nearly after the time you were above with them?
- A. No; it was too soon for supper.
- Q. Is the room in the South-East corner of the building?
- A. Yes; On the first floor above.
- Q. Had the bell been rung for supper when the Judge came down to the bar-room the second time?
- A. No; it was rather before supper time.
- Q. What time does the bell ring for supper?
- A. At that season it rings about half-past five or near six o'clock.
- Q. Did you see any part of the affray when the Judge re-entered the bar-room?
- A. No; for I picked up my hat and went away.
- Q. Did you afterwards see any of it?
- A. The difficulty was over when I returned.
- Cross-Examined:—Q. What were the words that passed between the Judge and Mr. Redding when you first saw them?
- A. I do not recollect them.
- Q. Did you observe by them and others any thing alarming?
- A. I observed that there was a good deal of excitement.
- Q. Did you see many strange faces in the bar-room?
- A. There were many strange faces in the bar-room that evening.
- Q. Had you any difficulty in getting the Judge to go to his room?
- A. I merely asked him to walk up, and he immediately consented, and we went up the public steps.
- Q. Why did you interpose to get the Judge to his room?
- A. From what I saw pass between the Judge and Mr. Redding, I saw the Judge was greatly excited, and I thought it my duty to prevent a quarrel.
- Q. Was not Mr. Redding greatly excited?
- A. I did not notice whether Mr. Redding was greatly excited or not.
- Q. What way did you understand the Judge's request for pistols?
- A. No words passed to justify me in forming an opinion of what they were wanted for.
- Q. Well, what did they want them for?
- A. I cannot say that they mentioned what they wanted them for.
- Q. When they afterwards came down to the bar-room, was it by the usual and main passage and door to the supper room that they came?
- A. It was.
- Q. Is it usual for those who are boarding to assemble in the bar-room a short time before supper?
- A. It is the usual practice.
- Q. How many bells are rung for supper?
- A. Only one bell for supper. The practice of the house is to collect in the bar-room before the supper is ready. Sometimes there is a delay; sometimes none.
- Q. When the bell rings is there not a considerable rush made to the supper room?
- A. It has been the case that if a person did not rush in, he would be late for supper—unfortunately, of late it has not been so.
- Q. What time was it when you noticed those strange faces assembled in the bar-room?
- A. I think it was about five o'clock.
- Q. What hour was it when Mr. Redding first came to the Galt House?
- A. When he came to ask for the names it was about four o'clock.
- Q. What time was it when the affray took place?
- A. It was about dark.
- Q. What hour was it when all was over?
- A. It must have been about six o'clock.
- Q. Was it not on account of the number and strange faces of those in the bar-room that you feared Judge Wilkinson was in danger when you took him out of the bar-room?
- A. Mr. Sneed told me that there would probably be a difficulty; on that account I wished to take the Judge away. I did not infer danger from any particular person or collection.
- Q. Did not Judge Wilkinson on reaching his room in company with you exclaim, "Good God! we claim from you the means of our protection."
- A. I cannot say that I heard such words.
- Q. Were Meeks, Rothwell, Johnson, Holmes and Oldham, frequenters of the house?
- A. Meeks I did not know; I did not know Mr. Rothwell, though I have been in Louisville since '35; Johnson I did not know; nor Holmes; I knew Oldham.
- Q. Was Mr. Redding a frequenter of the House?
- A. No; Mr. Redding was not in the habit of being at our house.
- Q. Do you not easily recognise persons who have been at the house?
- A. I usually know a person who has been at the house.
- Q. Mention some that were there that evening who frequented the house occasionally.
- A. Monohan was often at the house; he generally has business when he attends there. Mr. Reaugh is sometimes there.

Q. Well, to come to the point, what was it about the persons in the bar-room that excited your alarm and caused you to take Judge Wilkinson to his room?

A. I remarked many strange faces, which tended to excite my alarm and apprehension. It was from what I had heard of the affair at Mr. Redding's store; the assembly of persons; and the words between Mr. Redding and the Judge, that my apprehensions were excited.

Q. Can you see into the bar-room from the stairs?

A. Yes; there is a window looking into the bar from the steps of the stairs.

Q. Are these the public stairs?

A. Yes, the principal and public stairs.

Q. (By Mr. Hardin.) Is there not another door to the dining room known to those familiar with the house.

A. There is a small private door used by those well acquainted with the house.

Q. Was there such a crowd in the house as to cause a rush to the dining room door at supper time?

A. No; not at that time.

Q. When navigation is open and the Legislature in session, are there not many strange faces arriving at the Galt House every evening?

A. I could not say what proportion of strange faces these circumstances would cause to be present.

Q. Do you recollect the date of this affair?

A. I cannot say whether it was the 15th of December or not.

Q. Was not the navigation open then?

A. I cannot say.

Q. Had Mr. Marshal Halbert been boarding at the Galt House at the time?

A. He had been there about a week.

Q. If the affray had not happened at Mr. Redding's shop, would the assembly of strangers in the bar-room of the Galt House that evening have attracted your attention?

A. I do not think it would.

Q. (For Defence.) Had Judge Wilkinson been at the Galt House many times before?

A. Yes, many times.

Q. What were his deportment and general character?

A. He had always been a remarkably mild and retiring gentleman, of inoffensive manners.

Q. Was it because you saw strange faces in the bar-room at the same time Mr. Redding was there, and on account of what you had heard of the previous affray, that you wished to get Judge Wilkinson to his own room?

A. Those were the reasons I wished to get the Judge away.

Q. (By Mr. Hardin.) Had not a number of boarders who do not lodge in the Galt House, assembled in the bar-room for supper?

A. Yes, several.

Q. Do not other citizens assemble there from half an hour to a quarter of an hour before supper, to hear the news and look over the book of arrivals?

A. Yes, it is very general.

Q. (For Defence.) From the time Mr. Redding asked the names till the whole difficulty was over, how long was it?

A. I think it was probably over an hour.

Q. How long was it from the time Mr. Sneed spoke to you till you went up with Judge Wilkinson to his room?

A. It was only a few minutes.

Q. How long was it till the Judge returned?

A. It was probably fifteen minutes. It could not have been more than 20 or 25 minutes from the time Mr. Sneed spoke to me to go in till the Judge returned to the bar-room.

JOHN LUCAS, CALLED AND EXAMINED.

Mr. Hardin:—Are you one of the City Officers that arrested these gentlemen?

A. Yes.

Q. Did you find any of these knives about them?

A. I did not see any of these knives at the time.

MR. ROBERT POPE CALLED AND EXAMINED.

Mr. Hardin:—Mr. Pope tell the court and jury what you know of this transaction.

Mr. Pope:—I was in the Galt House the evening this affair took place. I boarded there at the time. When I went in that evening there appeared to be a great deal of excitement. There were many persons in the bar-room not usually there. I was standing behind the counter when Mr. Redding came in with a paper in his hand and pronounced Judge Wilkinson a damned rascal, liar, swindler and murderer. Shortly after the Judge entered the room and came towards the counter where the glasses and decanters were to take a glass of water. Redding said to him he was the gentleman who struck him in his shop that evening. The Judge said he would not fight him or quarrel with him, but if he touched him or laid a hand on him he'd kill him. Redding then called him names and abused him—calling him coward, &c. The Judge walked up and down the room and then left it. In some short time after Judge Wilkinson returned into the bar room, and Murdaugh and the Doctor along with him. Murdaugh came towards Redding who was standing with his back to the counter, and Redding remarked you are one of the damned rascals who attacked me at the shop with a bowie knife this evening. Mr. Murdaugh said, "if you say I attacked you with a bowie knife you are a damned liar and if you touch me I will cut your guts out."

Some one then caught Murdaugh's hand and the fight commenced. Blows were struck at Murdaugh and the crowd closed up as they passed round towards the dining room door. Immediately after,

my attention was attracted to the other corner of the room near the folding doors into the passage and I saw Judge Wilkinson standing in the door way with a bowie knife in his hand. Rothwell was standing a few feet from the door in a line towards the fire place. The Judge looked a moment and then stabbed Rothwell under the shoulder. Rothwell was stooped a little—not as if fighting—but leaning over some one down on the floor. Almost instantly a fight commenced with raised chairs and the crowd moved out of the room into the passage.

Q. Did you see the Judge effect the stab he made?

A. I saw the knife enter Rothwell's back.

Q. Which way was he turned?

A. His back was full towards me, rather leaving his side inclining to his back next the folding door, and his face turned from the door.

Q. Was he fighting at the time?

A. I did not think Rothwell was doing anything at the time.

Q. Did you see him get the other wounds?

A. I saw but the one stab.

Q. What sort of door is that from the passage into the bar-room, and what was the relative position of the parties?

A. It is a folding door. One fold was open; the other shut. The Judge was in the open part by himself. Rothwell was a few feet from the door towards the window of second cross street.

Q. Which was he nearer to, the window or the door?

A. About one fourth nearer to the door than to the window.

Q. How far was he from where the Judge stood before he made the stab?

A. About five or six feet.

Q. In what part of the room did the fight begin.

A. It began with the altercation between Redding and Murdaugh near the place at the counter where the bottles and glasses usually stand—about one third of the counter from the passage door.

Q. When Murdaugh came up to Redding was he armed and with what?

A. He had his knife open in his hand; a Spanish dirk knife like one of these.

Q. When the words passed was the open knife in his hand?

A. It was.

Q. How soon did you notice him with his knife drawn after entering the room?

A. My attention was drawn to him when Redding said he was one of the men who attacked him with a knife in his shop that evening.

Q. When Redding said that, what reply did Murdaugh make?

A. He said if you lay your hands on me or touch me I'll cut your guts out.

Q. When Murdaugh came in at the door from the passage had he his knife drawn in his hand?

A. I did not notice him coming in at the door. My attention was first drawn to him when the words passed which I have already mentioned.

Q. Did you see Mr. Meeks killed?

A. No, I did not. I saw him afterwards lying on the floor, and perceived that he was stabbed in the belly. There was a short cow hide or something that I took to be such lying by his hand. It had been an impression on my mind that he had struck Mr. Murdaugh with that cow hide which caused him to be stabbed. He was expiring when I looked at him and in a moment died—almost instantly as I looked at him.

Cross-Examined:—Q. Were you acquainted with Dr. Wilkinson?

A. I never saw Doctor Wilkinson to know him till he was before the examining court.

Q. What was Rothwell's position when stabbed?

A. He was stooping and the fight was going on before him, where I supposed some one was down, but I did not see any person down.

Q. What occasioned you to be in the bar-room at the time?

A. I was there to supper. I generally went into the bar room fifteen minutes before supper.

Q. When Murdaugh's hand was caught and he struggled towards the dining room door did you see any blows struck on him?

A. I saw some blows given at him but could not say by whom, the crowd closed them up so.

Q. (By Mr. Hardin) Do any persons board at the Galt House that do not lodge there?

A. Yes, several.

Q. Do such boarders congregate in the bar room before meals?

A. Yes, always.

Q. (For Defence.) Did you see Murdaugh struck at with a stick?

A. I had an impression that some one was using a stick at Murdaugh.

Q. Was the fight going on before Rothwell when he was stabbed?

A. It was going on between the door and the window and he was between the fight and the door when he was stabbed.

Q. What was the distance between the crowd and where Judge Wilkinson stood?

A. About six or seven steps. [Feet.]

Q. How far was the Judge from the end of the settee.

A. About two or three feet.

Q. Which was Judge Wilkinson nearer to the door or the settee?

A. About two thirds nearer the settee than the door.

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Q. What space was between where the Judge stood and Rothwell?

A. About five or six feet.

Q. From the position in which Rothwell stood could the Judge tell from where he stood whether Rothwell was taking part in the fight?

A. It appeared to me that Rothwell was not interfering but leaning over something down before him.

Q. Could you tell what he was doing before he was stabbed?

A. I had not observed him till I saw the Judge make the stab. I did not know that he was in the room till then.

Q. When Murdaugh was seized by the hand was he not dragged over towards the dining room door?

A. Yes, I thought so.

Q. Were not several blows inflicted on him during that time?

Q. (From Mr. Hardin.) Had he his knife drawn in his hand before any blows were struck at him?

A. Yes, when he came up to Redding and Redding said you are one of the men who struck me in my house.

Q. (For defence.) When Murdaugh was first closed upon by the crowd did you see him struck?

A. He might have got a couple of blows at the moment.

Q. What is the distance from the entrance of the bar-room from the passage to the dining room door?

A. About eight steps.

Q. Which is the length of the room?

A. It is longer between the doors than from the counter to the door; but the whole room is longer the other way.

Q. Where in the room was Meeks stabbed?

A. Near the dining room door.

Q. (By Mr. Hardin.) How many weapons did you see in use that night?

A. I saw only two—Mr. Murdaugh's and Judge Wilkinson's.

[Witness allowed to withdraw]

WILLIAM JOHNSON CALLED AND EXAMINED.

Mr. Hardin—Mr. Johnson state what you know of this affair.

Mr. Johnson—On Saturday evening I was going from Main to third street and near the corner went into the Pearl Street house kept by Mr. Redding's brother, who told me Jack was irritated at what had occurred at his shop. I went in to ask Jack about it and saw Mr. Rowland, Captain Rogers and Mr. Norris there. Some one said the Mississippians were damned rascals and ought to be punished; and some body else said there was a regular course to be taken. Mr. Redding said he had no one to go with him to the Mayor's office and I volunteered to go with him. We went and took Henry Shone along with us. As we

went along we called at Vacaro's and at Hyman's enquiring for the officers. We then went to the Mayor's office and up to Mr. Pollard's room, but he refused to give a warrant without the names. He offered a blank warrant to have the names inserted as soon as they could be ascertained. Redding would not take the warrant till he could get the names.—Mr. Pollard said if we could get the Marshal, Mr. Turner, he would act without the warrant. We went then to the jail to enquire for him and to see Mr. Ronald. Mr. Ronald asked me the matter and I was a minute or two telling him and Mr. Chenevorth. Mr. Redding was out on the pavement talking to Mr. Shone as I supposed but when I turned out again he was gone. It appears Mr. Redding called at Mr. Rothwell's and took him along to hunt for the names. As I passed on, I overtook Mr. Deering between Mr. Vacaro's and Mr. Shaffer's and he went along with me, and as we went we enquired where we'd find Mr. Turner or Mr. Dunn, the officers, till we come to Zanone's corner where we parted. I went on to Jack Redding's and Mr. Varmun's son told me Mr. Redding and Mr. Rothwell had gone to the Galt House for the names. I went on in the direction of the Galt House, having a little business with Mr. McCrum about buying a calf. I stopped to talk to Mr. McCrum a while about the calf and then I passed on to the Galt House. I went into the bar-room and saw Mr. Rothwell standing at the fire place with his back to the fire and saw Mr. Redding at the counter getting the names. I stepped to the door and invited Rothwell to come over to the City Saloon and have something to drink, but he refused, saying he had taken something at the bar. I then went myself and took Mr. Oliver and Mr. Meeks over and we met Mr. Taylor at the door of the Saloon and we all went in and drank something. After drinking Taylor and Meeks went over to the Galt House and Mr. Oliver and I had a few words with the bar-keeper after which we left and went to the Galt House. On returning there it appeared as if some excitement had been going on there. Mr. Redding was leaning on the counter relating some circumstances and Mr. Murdaugh came in. He spoke and the damned lie passed between them and as I thought Mr. Murdaugh struck at Mr. Redding and made two or three blows at Mr. Meeks who struck him with a whip or cane. They were then crowded towards the dining room door and I saw Murdaugh strike at Meeks with his knife. I saw Judge Wilkinson make a thrust at Meeks too and shortly after observed him fall dead. The Judge retreated back to the corner from which he had approached Meeks, and by the time he got back Meeks fell dead. After Meeks fell, Murdaugh tried to escape out of the door, and the Judge passed between the dining-room door and Meeks' feet as if to make his escape after Murdaugh. While doing so, the

the doctor was down in the other corner and Holmes beating him with his fist and Rothwell leaning over Holmes saying, "peace, gentlemen, for God's sake," and trying to get Holmes off the Doctor. When Murdaugh had got to the door and the Judge after him; and when the Judge got to the door, seeing the fight in the corner with his brother, he turned back and made a lunge with his bowie knife at Rothwell whose back was to him. Then Murdaugh and the Judge made their escape and the Doctor got disengaged and made to the door when Oldham was entering and the Doctor struck at him with his knife and Oldham sort of shrunk from the blow when the door closed and I saw no more.

Q. What part of the bar-room was Murdaugh in after entering the room?

A. In the S. E. corner with his knife drawn.

Q. Where was Judge Wilkinson then?

A. Judge Wilkinson was in the N. E. corner probably unknown to the spectators.

Q. Which did Murdaugh or Redding speak first?

A. I think Mr. Redding said "I presume you are the gentleman who attempted to strike me with your knife; give me some cause why you did so." I think Murdaugh said, "It is a damned lie!"

Q. Is this the knife Murdaugh had in his hand.

A. I think it is—it was just such a knife.

Q. Did you see Murdaugh aim a blow of the knife at Redding?

A. I think he struck at Redding and that Meeks struck him off.

Q. Had you seen Meeks that day before the fray at Redding's shop?

A. I did not see Meeks that day till I saw him at the tailor's shop.

Q. When Murdaugh and Redding and Meeks were at the counter near the centre of the bar-room, where was Judge Wilkinson?

A. Judge Wilkinson was in the N. E. corner, and kept there till Meeks was in the N. W. corner, when he approached him and made a thrust of his bowie knife and then retreated back to the same corner he had been in before. As Judge Wilkinson made the thrust, before he could get back Meeks fell dead.

Cross-Examined;—Q. Where did you first meet Meeks that day?

A. As I was going from the Post Office to the Pearl street House, I saw Meeks and Redding's brother. I had a few minutes conversation with them and then observed I would go and ask Jack about it myself. I then started to do so and Meeks came out of the door, but whether he came with me into the store or not I do not know.

Q. Who were in the store when you went in?

A. Captain Rogers, Mr. Roland and Mr Redding.

Q. Did you notice any conversation between Meeks and Redding in the store?

A. No, there was none.

Q. Was Meeks present when you spoke to Redding?

A. He was either in the store or at the door.

Q. Did you see Meeks and Redding in conversation in the shop?

A. I do not know whether Mr. Meeks spoke or was known to Mr. Redding.

Q. Did you not see him in the shop?

A. I do not know that I saw him in the shop or not. Mr. Meeks came with me from the coffee house towards the store. He was my acquaintance and accompanied me towards the door.

Q. Was Mr. Redding in the coffee house just before that?

A. I did not see Mr. Redding in the coffee house, it was his brother. Mr. Meeks went with me towards the shop but I cannot say whether Mr. Redding noticed him or not.

Q. Did Meeks say why he accompanied you?

A. He did not intimate why he accompanied me. He started with me from the coffee house when I said I'd go to the shop.

Q. Can you say whether he did or did not enter the shop?

A. I do not know whether he came into the shop.

Q. When you were in the shop what advice was given to Redding?

A. Some advised Redding to chastise the Mississippians. But one said there was a regular course to take.

Q. Who were the persons in the store then?

A. Mr. Redmond who had seen the fuss. Mr. Rothwell was also there.

Q. Are you sure Meeks was not one of those present.

A. I cannot say whether Meeks was in the store. He had started with me from the coffee house towards the store door but cannot say that he entered.

Q. Well, who else was in the store?

A. Mr. Roland and Captain Rogers and Mr. Redmond. There might be three or four more standing about. I saw Mr. Paris there.

Q. When the proposition was made to Redding to chastise these gentlemen did you interfere?

A. Yes, I said to Redding, no, take the law.—Mr. Redding then asked me if I would go with him to the Mayor's office; and I went with him.

Q. When you went to the jail whom did Redding converse with?

A. Mr. Redding and Mr. Chenoweth were talking on the pavement and I went in.

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Q. Did you see any one besides those you have already named, on your way to the Mayor's office.

A. I saw others as I went that I did not know.

Q. Did you hear Deering say if they were not secured they would be gone before the warrant could be got?

A. I did not.

Q. Did you not say to Deering that if they came out their hides would not hold shucks?

A. I never said so to Deering.

Q. When you were in the bar-room did you hear Mr. Miller make any observation about his being a grand juror and the boys must mind themselves?

A. I have no recollection of hearing Mr. Miller say that he was one of the grand jury and the boys must mind themselves. I saw him talking to Mr. Reaugh but do not remember the conversation.

Q. What motive had you for following Redding and Rothwell to the Galt House?

A. I only went up Main street to negotiate with Mr. McCrum about his calf. When I was so far I thought I'd go into the Galt House to see if Mr. Redding had got the names.

Q. When you did go in, what passed between you and them?

A. When I was going to take Meeks, Oliver, and Joseph Taylor to the opposite coffee house, I asked Rothwell to come over and have something to drink, he refused saying he had drank some at the bar.

Q. What motive had you for returning to the bar-room when you knew Redding had got the names?

A. I expected Mr. Turner would be along to arrest them.

Q. How did you know Redding and Rothwell were at the Galt House together before you got there?

A. When I called at the store and asked Mr. Varnum's son for Mr. Redding, he told me that he and Rothwell had gone to the Galt House to get the names.

Q. When you proposed to Meeks, Oliver, Taylor and the others in the saloon to have something to drink, did you not say "come boys let us take a drink and then let us go over and give these fellows hell?"

A. No, ZUR—No, Sir!—nothing of the kind.

Q. After these gentlemen were put in jail did you not go from house to house proclaiming that they ought to be hanged?

A. Many gentlemen asked questions and I told them as near as I could tell, about what I had seen but always said, let the law take its course.

Q. What conversation passed at the opposite coffee house while you and the others were drinking, relative to the expected row?

A. There was no conversation of that kind.

Q. When You met Holmes in third street, who was with him?

A. He and some other person were passing along towards the theatre—they were going about a dog.

Q. Did Mr. Redding or Mr. Shone speak to him?

A. They might have spoken to him, but I do not recollect that they did.

Q. What did you say to Holmes?

A. I am not sure that I said any thing, or what it was, if I did, except it might be something about the dog.

Q. When you invited Rothwell to go from the bar-room to the coffee house what sort of a stick had he in his hand?

A. I did not see any stick with him.

Q. When he was at the door had he not a stick?

A. I did not see a stick with him at the door or the fire or at all that night.

Q. At the beginning of the fight in the bar-room who struck the first blow?

A. I thought Meek struck at Murdaugh with the whip to keep him from making the stab with the knife.

Q. What weapon had you prepared yourself with?

A. I had neither weapon nor stick myself.

Q. Who had the sword cane?

A. I saw no sword cane.

Q. Who give Judge Wilkinson the stab in his back?

A. I don't know.

Q. What conversation took place between you and Mr. Reaugh?

A. I do not remember—it was about some men being sponges, or some such thing.

Q. Try if you can recollect?

A. Oh, it was about that and one thing and another.

Q. Come now recollect what it was about?

A. Why Judge, can you recollect what corn patch you planted ten years ago?

Q. My question is a very plain one, cannot you recollect some of the words that passed?

A. No, for I do not keep the leaves of a dictionary in my head.

Q. Well we'll see if some one else can recollect it. When the proposition was made to Mr. Redding to take vengeance on these gentlemen who observed it and what did Meeks say?

A. It was proposed by some by-stander or loafer; but I do not recollect Meeks recommending it.

Q. Was Mr. Samuel Jackson there?

A. I do not recollect seeing him there at all.

Q. What time of the day was it?

A. It was before sun set—may be an hour.

Q. Did you see Mr. Holmes in the bar-room of the Galt House when the affray began?

A. Yes.

Q. Did you see Mr. Oldham?

A. I saw him at the door as they made their retreat out.

Q. Did you hear or see him shoot the pistol?

A. I did not mind it.

Q. Did you not know he had pistols?

A. I knew he always carried arms since he was a city officer.

Q. When you and Redding went to the Mayor's office and saw Mr. Pollard what did he say?

A. As we had not the names he offered to let us have the warrant with blanks for the names to be afterwards filled up, and said if we could find Mr. Turner he could act without a warrant. Mr. Redding said, no, he would get the names first.

Q. After that whom did you invite to the Galt House?

A. I do not recollect inviting any one.

Q. Did you not tell any one to be there?

A. No, I have no recollection of any such thing.

Q. Did Redding refuse to take the blank warrant?

A. Yes, he said he would get the names first.

Re-Examined:—Q. Where did you see Mr. Holmes first in the Galt House?

A. In the passage talking to Mr. Halbert.

Q. Where did you see him during the fight?

A. I saw him standing over the Doctor.

Q. Whom did you talk to besides Mr. Redding and Mr. Shone about going to the Galt House?

A. No one that I recollect.

Q. Did you go to the Galt House for the purpose of assaulting these gentlemen?

A. I did not.

Q. Did Mr. Redding say that he was going for that purpose?

A. I never heard him announce any such intention. Mr. Redding and others apprehended some little difficulty might occur in getting the names, but I did not hear any reason assigned.

Q. Did you know Mr. Meeks, and if you did, say what sized man was he?

A. I knew him well—he was quite a small man.

Q. Did you see Meeks after you left him at the door of the tailor's shop till you saw him in the Galt House?

A. No, I did not.

Q. When you met Meeks at the Pearl street coffee house, what did he say?

A. He said it was hard the way these gentlemen had treated Redding.

[Witness allowed to withdraw.]

MR. TRABUE CALLED AND EXAMINED.

Mr. Hardin:—Mr. Trabue, be so good to tell the court and the jury what you saw of this business.

Mr. Trabue—I was in Louisville about the 15th or 20th of Dec. when this affair took place. I heard this business talked over—myself and another

gentleman boarded at the Galt House. I was in the bar-room near the fire when some one observed that had not the Mississippi gentlemen gone up stairs they would have been badly treated. Some one pointed out Mr. Redding whom I knew before. Judge Wilkinson came in and walked backwards and forwards two or three times greatly excited. Mr. Redding then entered the door and crossed the Judge's path. The Judge stopped and looked at him and Redding placed his back against the counter. I think when Murdaugh entered he was the first that spoke, saying, 'I understand you say that I drew a bowie knife on you—if you say so you are a damned liar.' Mr. Redding said, 'I don't know that you are the man but one of the three did.' Mr. Murdaugh replied, 'if you or any one else says it was I, it is a damned lie.' A little man whom I knew afterwards to be Meeks came up and said, 'you are the damned little rascal that did it,' and he struck at Murdaugh with his whip. About the same time Rothwell struck Murdaugh, who had his knife open in his hand when he was first struck at. The crowd closed up on them and they were hurried towards the dining-room door. Shortly after I saw the Judge stabbing about with his bowie knife. Murdaugh, Meeks and Rothwell, were in the middle of the scuffle when the Judge made towards them and I saw him stab Rothwell in the back, or towards the side. Rothwell made a slight shrink on getting the stab and sort-o' turned round to see who struck him. As soon as I saw Judge Wilkinson stab Rothwell in the back, Doctor Wilkinson was knocked up against me; and sometime after, Holmes had the doctor down, and raised his head with one hand to strike him with the other. Marshal Halbert came up and addressed Holmes, saying, 'you have beat him enough.' I helped to separate them and the doctor made his escape. I saw the Judge, and I saw a bowie knife glistening; they got out into the passage and I heard a pistol fired. At the same moment I saw Meeks drop dead.—Rothwell on the instant came in with the blood flowing from his wound. He took off his coat with some assistance.

When you saw Judge Wilkinson stab Rothwell in what part of the room was it?

A. Near the dining room door.

Q. Did you see Rothwell get any other stab?

A. I saw but the one.

Q. Which corner of the room was it in?

A. In the opposite corner from where Doctor Wilkinson and Holmes were engaged.

Q. Describe the corners as you face the fire?

A. Holmes and Doctor Wilkinson were fighting in the left hand corner as you face the fire; the Judge, Rothwell, and Halbert were fighting in the right hand corner as you face the fire.

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Q. Are you sure you saw Rothwell get but the one stab?

A. It sometimes has been an impression on my mind that as Rothwell turned, the Judge made another stab at him, but I am not certain.

Q. Did you see Judge Wilkinson attempt stabbing any one else?

A. I saw him repeatedly stabbing about with his bowie knife.

Q. Was any person then molesting him?

A. At the time he was stabbing about, I did not see any person interfering with him.

Q. Is this the knife he had?

A. The knife was similar to that.

Q. What was his manner of stabbing about as you describe?

A. I saw the Judge make several thrusts forward in this way, throwing his head back, [jerking forward his arm.]

Q. When Murdaugh came into the room which did he or Redding speak first?

A. Although there are many persons say Redding spoke the first word, I am certain it was Murdaugh, unless Redding spoke very low.

Q. On whom was your attention first fixed?

A. I had my eye upon Murdaugh, Meeks and the Judge; as soon as this striking commenced I retreated from them.

Q. Did you then see the Doctor?

A. I had not discovered the Doctor till I saw Holmes beating him. I would have seen more of the fight between Meeks, Murdaugh and Rothwell, had not Doctor Wilkinson been struck up against me.

Q. Was he then knocked down?

A. He was not knocked down till after Rothwell had been stabbed by Judge Wilkinson.

Q. Did Rothwell continue to fight after the stab you saw?

A. My attention was drawn from Rothwell to Doctor Wilkinson, and I did not see Rothwell again till he was walking from where Meeks fell towards the passage through the door. The pistol was fired and he turned into the room bleeding.

Q. Were they fighting out of the room at the time?

A. The room had been cleared.

Cross-Examined:—Q. Did any one else strike at Murdaugh besides Meeks?

A. I saw some one besides Meeks strike at Murdaugh, and have an impression it was a large man like Rothwell with a stick or cane.

Q. What sort of whip or cane was it Meeks struck with?

A. I thought it was a polished steel cane that Meeks struck with, but I may be mistaken in that: my impression is very indistinct.

Q. When Mr. Murdaugh was struck, was he warning them off?

A. He was warning them not to strike him.

Q. When did he draw his knife?

A. As he gave the lie to the report. He said, any man that says so, is a liar.

Q. Did he say, knife, or bowie knife?

A. I do not recollect that he said bowie knife. His words were, "It is reported that I drew a knife on you, and if any one says I did, he is a damned liar." Meeks came up and said, "you are the damned little rascal that did it," and with that struck at Murdaugh.

Q. Did any one else at the same time commence striking?

A. My impression is, that another, a large man, struck at Murdaugh with a stick at the same time.

Q. When the Judge first left the bar room, did Redding remain till the Judge's return?

A. Redding went out before the Judge came in. After the Judge came in, and paced the room, Redding entered and crossed his path to the counter, and by that time a right smart crowd entered the door, and got about them.

Q. Was a difficulty expected by those in the room?

A. I don't think there were five men in the house that did not expect a difficulty. It was considerably talked of all the evening.

Q. What occurred in the passage when they got out there?

A. I was not out to see what passed in the passage. After Rothwell got his coat off and lay on the chairs, I left the bar-room and went to my room.

Q. What weapons did you observe with both parties?

A. The only weapons I saw as I recollect, were the two knives, the whip, or what appeared to me to be a polished steel cane.

Q. When Murdaugh was struck with that cane, did it wound his head?

A. I think there was a wound made when I saw it strike.

Q. Where did you last notice Murdaugh in the fight?

A. The last of Murdaugh I saw after the first scuffle, I thought he was staggering back for the door where he had entered.

Q. Could any one observe all that was going on together?

A. I do not think it possible that any one could see every thing that occurred.

Q. The terror was so great that people fled from it?

A. I think before the fight was half over, there did not remain more than ten or a dozen persons in the house.

Re-examined:—Q. What time in December did it occur?

A. I think about the 15th or 20th. I was there a day or two before it happened.

Q. It was in Louisville, in the county of Jefferson?

A. Yes.

[Allowed to withdraw.]

MR. MONTGOMERY CALLED AND EXAMINED.

Being requested by Mr. Hardin to state what he knew of the affair—

Mr. Montgomery:—I was at the Galt House with Mr. Trabue. The first I saw of the affair was at Mr. Redding's shop. As I was passing in the street, I saw two or three gentlemen engaged in the door-way. Mr. Redding appeared to have turned back on the pavement. Mr. Murdaugh was on the pavement too, and had a drawn knife in his hand; Redding said if they would lay aside their weapons he would whip the three of them. Murdaugh said he could not begin to do it, pointing his knife at him. Judge Wilkinson then came up and took Murdaugh away.

Q. What time was it?

A. It was between three and four o'clock.

Q. State what you know of the affair at the Galt House.

A. Afterwards at the Galt House, I saw Redding getting the names. He was using very rough language. It was nearly dark when Redding came back into the bar-room. Mr. Halbert said there would be rough work with the Mississippians. Hearing some one speak loud near the counter, I got up and went towards the counter. Mr. Meeks was near Mr. Redding, who was addressed by Mr. Murdaugh. Mr. Rothwell was next Mr. Redding. Murdaugh had his drawn knife in his hand. He remarked that "if any one said he drew a bowie knife, it was a damned lie." Meeks said "he was the damned little rascal that did it," and struck at him. Murdaugh tried to use the knife, but his hand was seized, and he changed the knife into his other hand, and made a stab at Meeks, and cut him in the belly, and his blood shot out upon my pantaloons and vest.

Q. Did you see Rothwell stabbed?

A. I saw the Judge thrust his bowie knife into Rothwell's back. The crowd dispersed like, and the Judge backed out towards the passage. I turned towards the fire, and saw Mr. Holmes pounding Dr. Wilkinson very heavily. Halbert said to him "Bill, you have beat him enough," and he and others took hold of him. By that time I saw the Judge again appear at the door, and make a stroke with the knife at Holmes, and immediately I saw Rothwell with the blood flowing from him.

Q. Did you see the Judge stab Rothwell twice?

A. I did not see the Judge stab Rothwell more

than once, and that was in the right hand corner of the room as you face the fire.

Q. Was the Judge using his knife freely?

A. Yes; very freely.

Q. Was any person attacking him?

A. I did not see any person attack him. I did not see any one attempt to strike him, till after he had struck at Holmes with his knife, when Holmes and Halbert raised chairs against him. I too, raised a chair, not that I thought he struck at me. Holmes had been separated from the Doctor when the Judge struck at him.

Q. When the Judge stabbed Rothwell, was Rothwell's back to him?

A. Not exactly; but a sort of quartering.

Cross-examined:—Q. You live in Oldham county?

A. Yes, sir, I do.

Q. Did you hear any persons say they would beat the Mississippians?

A. Yes, several said they would beat them well. The Mississippians were not in the room at the time. [Witness allowed to retire.]

MR. THOMAS REAUGH CALLED AND EXAMINED.

Mr. Hardin:—Mr. Reaugh, state what you know of this transaction.

Mr. Reaugh:—I had been in the country that evening, and on my return, Mr. Kintner, of Corydon, asked me to go to the Galt House, and have a glass of wine. He was boarding at the Galt House. I drank with him at the bar, and walked to the fire-place. On turning round, I saw Mr. Redding talking to Mr. Rothwell. In a few minutes I saw Mr. Holmes. Mr. Redding was in conversation with Mr. Rothwell, and, I think, with Mr. Halbert. I turned to Mr. Johnson, and asked him if any thing was the matter? he said yes, and told me about the difficulty at Mr. Redding's store. I remarked that if the Mississippians fell into the hands of these men, they would fare rather rough. "Yes!" replied Johnson, "they would skin them quicker than I could skin a sheep." I heard a Mr. Miller say to Mr. Redding that if he'd get the names he'd attend to the matter in the Grand Jury. Mr. Redding went to the bar; shortly after a gentleman came in, and Mr. Redding turned to him and said, "I believe, sir, you are the gentleman that struck me with the poker?" He turned round and said, "yes, sir, I am." Mr. Redding then used very rough language, when the Judge said, "go away, or I'll kill you." The Judge then walked the room, and peaceably passed out to meet Mr. Everett in the passage. The Judge was gone some time when he returned again and walked across to the dining room door. I think he had his right hand in the left hand pocket of his coat. He stood with his eye fixed on the opposite door, Mr. Redding a few steps from him, when a gentleman with a drab overcoat

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came towards Mr. Redding with a knife in his hand. He addressed himself to Mr. Redding in this way, "Sir, do you say that I drew a bowie knife on you? if you say so, you are a damned liar!" Mr. Redding said, "I don't say it was you, but one of the three." A little man whom I afterwards knew to be Meeks, came up and said, "you are the damned little rascal," and I think he was making the blow with his whip as he said the words. I retired to the fire place and saw Mr. Meeks stagger to the N. W. corner of the room. I saw him struck, as I thought, with a dirk, and then fall. At the same time I saw a fight in the S. W. corner, and Judge Wilkinson at the door striking the first blow at Rothwell, but it did not seem as if the blow could reach him, but as he turned a little, the second blow did, and it appeared as if at the time Rothwell was in the act of taking off Holmes from Doctor Wilkinson.

Q. When Judge Wilkinson stabbed Rothwell, was Rothwell in the S. W. corner in the act of taking hold of Holmes to relieve Dr. Wilkinson?

A. Yes; it appeared as if he was taking Holmes, or some other man, off the Doctor.

Q. In what corner of the room as you face the fire?

A. In the left hand corner.

Q. It was some twenty feet from the dining-room door?

A. I think it was.

Q. If you took a line from the passage door to the fire place, where would Rothwell's position be?

A. A little to the left of that range line.

Cross-examined:—Q. What part did Rothwell take in the fight between Meeks and Murdaugh?

A. I did not see him take any part.

Q. Had not Rothwell a stick in his hand?

A. To the best of my recollection, I think he had.

Q. Where did you see Meeks first that evening, and was he then excited?

A. Mr. Meeks seemed considerably excited when I first saw him that evening in the passage, and he asked me to go and drink with him in company with another man.

Q. When you remarked these large gentlemen would handle the Mississippians roughly if they fell into their hands, and Johnson said "they would skin them as quick as he could skin a sheep," what caused you to ask Johnson what was the matter?

A. The appearance of these men made me ask Johnson the question.

Q. How many blows, and in what manner did Judge Wilkinson strike at Rothwell?

A. Judge Wilkinson struck two blows, as I think, holding the knife this way,—[showing it in his right hand pointing forward.]

Q. Had Murdaugh a knife in his hand when he was struck by Meeks?

A. He had a knife, but they were so close together, it was impossible for me to tell what was done.

[Witness allowed to withdraw.]

MR. REDMOND RE-CALLED.

Mr. Hardin:—Mr. Redmond, state what you saw at the Galt House that evening.

Mr. Redmond: I was at the Galt House that evening, on my way to my supper. I live on Market, between Brook and Floyd; and passing the Galt House on my way home, I heard pretty loud talk inside, which induced me to enter. When I went in, Mr. Redding was abusing Judge Wilkinson, who remarked he did not want to have any thing to do with a man of his profession, and if he laid hands on him he'd kill him. He then walked up and down the room with his right hand in his left hand coat pocket. Mr. Everett called him to the counter, and catching his arm, told him he had better go to his room. He went out, and in ten or fifteen minutes he returned accompanied by Mr. Murdaugh, the only one I noticed coming in with him. When Mr. Murdaugh came in, I was behind Mr. Redding. Mr. Redding said "you are one of the gentlemen who drew a knife on me." Murdaugh said "you are a damned liar." Meeks said "you are; I saw you myself." Murdaugh replied "you are a liar," and made a pass at him with his knife at the same instant that Meeks struck him with his whip. Some one caught Murdaugh's right hand, and he changed the knife into his left hand, and the second thrust he cut Meeks in the belly. Meeks staggered about, a little backwards, and finally fell towards the counter. I was then making my way out of the room pretty quick, I tell you; and as I was going by the crowd in the left hand corner I saw Holmes scuffling with the Doctor. The Doctor had a knife in his hand at the time. Rothwell was leaning over Holmes, begging him to get off. Holmes said, "let me hit him one more blow." Judge Wilkinson was at the door, and made a thrust at Rothwell, and stabbed him over the hip, when Rothwell straightened up and exclaimed "oh! I am cut," and the Judge retreated out of the door.

Q. Were you asked at the examining court any thing concerning what you had seen at the Galt House?

A. No; I was not asked about it.

Q. After the Judge left the bar-room, you left also?

A. Yes; I had no object in view to remain.

Cross-Examined:—Q. Did you not tell a journeyman tailor who works for Mr. Davie what was to happen at the Galt House?

A. No, SIR! I told him what had happened at Redding's shop.

Q. You say you saw a knife in the Doctor's hand—was he using it?

A. When the Doctor lay on the floor his hand was flat on the boards with his knife in it. I think he was pretty well used-up; and from the way Holmes had him fixed, I expect he had no chance of using his knife.

Q. During the ten or fifteen minutes between the acts in the bar-room was there any talk among those present about what had passed?

A. There was talk of what had happened, and of Redding having offered to whip the whole three if they would lay aside their weapons.

Q. Were you at the Galt House when Redding went first?

A. No; I did not go to the Galt House to see that.

Q. You were in Mr. Redding's employment?

A. I worked for Mr. Redding at the time.

[Here the Court adjourned for dinner and re-assembled at 2 o'clock.]

JAS. W. GARRISON CALLED AND EXAMINED.

Mr. Hardin.—Mr. Garrison, state what you observed of this affair.

Mr. Garrison.—I was at the Galt House that evening and saw Mr. Redding there, and heard him tell a gentleman that Judge Wilkinson was one of the persons who had attacked him at his own house, and that they were cowardly fellows. After a little I heard the Judge say to Redding, "I will not fight with a man of your profession; but if you interfere with me I will kill you." He shortly after retired. I observed to Redding, that if I was in his place I would not interfere with these fellows. Another person observed, "Yes, I would get their names and put them under city authorities." Redding replied, that he had got or would get the names. In about ten minutes the Judge returned and walked across the room very briskly with his right hand in his coat pocket. On the third time Redding crossed the track to the counter and observed that the three men were now present. Mr. Murdaugh then spoke to Mr. Redding and he turned round and said something very short to him in reply; directly the damned lie was given to what Redding said, and the crowd closed on them. I was outside the crowd and did not see the knives. I saw blows struck but could not tell upon whom.

Cross-examined.—Q. State if you can who gave or received the blows?

A. I cannot tell either.

Q. When Mr. Redding said the three men were present did he speak loud enough to be heard all over the room?

A. Yes I thought so.

Q. You stated that when Mr. Murdaugh addressed Mr. Redding, Redding turned round towards him?

A. Yes.

Q. What was Mr. Redding doing after that?

A. I did not see him that evening afterwards.

Q. What did you observe of Mr. Johnson, Mr. Meeks or Mr. Holmes?

A. I did not see Mr. Johnson to know him; nor was I acquainted with Meeks or Holmes.

Q. What induced you to caution Redding by saying, if you were he, you would not interfere with these fellows?

A. From what the gentleman said to Mr. Redding I thought perhaps the gentlemen had knives and that some one might be killed.

Q. Did not Mr. Redding use very hard and opprobrious language to the Judge when he first addressed him?

A. I think I was in the bar-room when the fuss began. I did not consider Redding had used very hard language except saying that they were cowards and if they would lay aside their weapons and go into a room he'd whip the whole three of them.

THOMAS A. M'GRATH CALLED AND EXAMINED.

Mr. Hardin.—Mr. McGrath, state what you know of this affair.

Mr. McGrath.—I happened to be in the Galt House on the evening of this fight, and had been there but a short time until I understood there had been a difficulty. I heard some person speaking of it and saw Mr. Redding there a few minutes before Judge Wilkinson came into the room. Either Mr. Redding or some of his friends had spoken to me. Judge Wilkinson came into the room and Mr. Redding addressed the Judge in this manner: "Sir," said he, "I believe you are the gentleman who struck me with the poker in my house this evening, and you are a damned rascal; and if you will come into a room or the street and lay aside your weapons I'll whip the whole three of you." The Judge walked up and down the room with his hand in his pocket. After Mr. Redding had abused him a good deal, the Judge came to the counter and took a glass of water. He then said to Redding he would not quarrel or fight with a man of his profession; but if he would interfere with him he would kill him. I advised Mr. Everett to take the Judge to his own room, and Mr. Everett went round to do so. At the same time the Judge left the bar-room. In five or ten minutes the Judge, Mr. Murdaugh and Dr. Wilkinson, all three, entered the bar-room together. I was inside the counter, in the bar-room, and Mr. Redding stood at the counter opposite me. Mr. Murdaugh came forward towards Mr. Redding, who said to him, "Sir, I believe you are one of the men who drew a knife on me at my house this evening?" Mr. Murdaugh said, "Sir, I understand you say I drew a bowie knife on you, and you are a damned liar if you say so," opening his knife. In a moment the crowd got round them and they moved down the counter and I could not well see what was doing. Mr. Redding moved down with them. I could see in the crowd that blows were passing; but

could not discern who gave or received the blows. I saw a knife with Mr. Murdaugh, and observed him striking with it, and I thought he had killed Mr. Redding when I saw a man fall. After that there was a general fight through the room.

Q. Did you see Mr. Meeks killed?

A. I saw him fall, but did not see the knife enter him.

Q. Which hand did Murdaugh hold the knife in when you saw him strike?

A. It was in his right hand I saw the knife.

Q. After Meeks fell what was done to Murdaugh?

A. I saw no more of Mr. Murdaugh that evening.

Q. State what you observed of Judge Wilkinson.

A. The first I saw of Judge Wilkinson after the fight began, he was standing near the dining-room door, with his back to the door, not standing erect but a little stooped, and holding his arm above with a bowie knife six or eight inches in the blade in his hand. He held his arm and the knife in his hand rather above the heads of the crowd, as if to make a passage. He passed through the crowd to the door opposite, and when he got in that door-way he turned and faced into the room. He seemed to take his stand there, and then I saw him take a jump forward and make a thrust towards where I believe Mr. Holmes, or Mr. Rothwell, I could not tell which, was engaged in the fight with Doctor Wilkinson. He returned from the blow and jumped forward, making another thrust, and again returned; and as he lunged forward the third time, Marshall Halbert took up a chair and threatened the Judge to keep back, though I do not think he could have reached him with the chair from where he stood.

Q. Did you see the stab inflicted on Rothwell?

A. I did not see the knife enter Rothwell at all.

Cross-Examined:—Q. State how long you have known Judge Wilkinson, and what has been his general character.

A. I have known Judge Wilkinson for three years. I have heard a good many gentlemen speak of him before and since this transaction, and have always heard him spoken of in the highest terms. I have been in the South this winter, and in his neighborhood, and have heard him spoken well of there.

Re-Examined:—Q. You have made clothes for Judge Wilkinson and I suppose he has treated you civilly?

A. He has always acted like a gentleman to me.

Q. You were in the South this winter?

A. Yes, sir, I have said so.

Q. Did you hear a letter spoken of there as having been written by Judge Rowan which caused a great excitement in Judge Wilkinson's favor?

A. I heard the letter much spoken of. There

was a great excitement, but I cannot say it was caused by that letter.

Q. (For the Defence.) I suppose a great many gentlemen spoke to you about this trial?

A. Yes, a great many.

[Witness allowed to retire.]

JAMES W. GRAHAM CALLED AND EXAMINED.

Mr. Hardin:—Mr. Graham, state what you know of this transaction.

Mr. Graham:—I was passing by the Galt House that evening about dusk and I saw Mr. Redding and Mr. Rothwell crossing the street alone; Mr. Rothwell probably ahead of Mr. Redding. I slapped Mr. Redding on the shoulder, and thought there was something singular about his countenance. He turned round and shook hands with me.

Cross-examined:—Q. Was it not some strong appearance of excitement attracted your attention?

A. It was something unusual in Mr. Redding's countenance that caused me to take notice.

Q. Were there any persons following them at the time?

A. I do not think there was any person in the street within a square of them at the time.

DR. KNIGHT CALLED AND EXAMINED.

Mr. Hardin:—Doctor Knight, describe the injuries inflicted on Mr. Meeks and Mr. Rothwell?

Doctor Knight:—I did not examine the wound on Mr. Meeks. I saw it, but he was dead at the time. I examined Mr. Rothwell—he had three wounds; one between the eleventh and twelfth ribs; the second through the seventh rib, separating it. Both wounds were through the spleen. There was a third wound in the chest near the collar bone, down to the right lung. I consider the wound in the chest caused his death; the wounds in the side had a favorable appearance from the protrusion of the lips of the wounds.

Q. Did not these wounds in the spleen contribute to death?

A. Though not the immediate cause, they certainly contributed.

Q. By what sort of weapon did the wounds appear to be inflicted?

A. Those through the spleen by a large knife; that in the chest by some small instrument.

Q. Could it have been made by any of these knives?

A. It was not by a bowie knife. It was quite a small puncture—made by a very small instrument.

I think the puncture must have been about six or seven inches in length to where it penetrated. The wound was about as broad as the blade of this knife, and to the depth of from five to seven inches.

Cross-examined:—Q. Were the wounds made by the bowie knife the immediate cause of death?

A. No; the wound in the chest caused the death by suffocation.

Q. Without that wound would death necessarily have ensued?

A. It is hard to tell what might have been the effect of the wounds in the spleen. It is not a vital organ; but wounds leading to inflammation might prove fatal; however, if inflammation could be kept down, and there were no other aggravating tendencies in the system, I do not consider that they would have caused death.

Re-examined.—Q. Was there not air admitted and expelled by the wounds in the side, which caused the collapsing of the lung?

A. Air might have been taken in and expelled in that way, but not by the lungs, for there is no connection between the cavity of the abdomen and that of the lungs, but the puncture through the seventh rib passed through the diaphragm.

Q. [For the defence.] Could the puncture in the chest be made by that bowie knife?

A. Certainly not.

Q. The circumstance of the lips of the wounds protruding, you consider a favorable symptom?

A. Much more favorable than if they had contracted, because the protrusion of the lips admitted of the flowing of any blood or suppuration: a contraction would confine these, and thus lead to inflammation, which might prove fatal in its progress.

DR. McDOWELL CALLED AND EXAMINED.

Mr. Hardin.—Doctor, state whether it is your opinion that the wounds you examined on the body of Rothwell, through the spleen, contributed to his death?

Dr. McDowell.—I am of opinion that all the wounds contributed to death: but the immediate cause was from the puncture on the right side.

Q. Did not the other two wounds, in conjunction with that, contribute to death, and, in fact, accelerate it?

A. Certainly; that is my opinion.

Cross-examined: Q. Would not the puncture have caused death of itself?

A. No. The lobes of one side afford sufficient respiration to sustain life.

Q. What collapsed the lobes on the left side.

A. Atmospheric pressure.

Q. How could atmospheric pressure affect them from wounds penetrating the abdomen, as both the Bowie knife wounds entered the spleen?

A. Both wounds entered the cavity of the chest, and passed through the diaphragm into the spleen in the abdomen.

Q. What was the injury on the lung?

A. It was not wounded.

Q. Did both wounds penetrate the cavity of the abdomen?

A. Yes, both.

Q. What sort of instrument do you think the puncture on the right side was made with?

A. I conceive it must have been a very slender instrument. I should think not more than half an inch in width.

Q. What direction did it take?

A. From the top of the sternum to the juncture of the second rib with its cartilage.

Q. Was the lung penetrated?

A. We could not find any trace that it was.

Q. What appearance had the puncture on the skin where the instrument entered?

A. The puncture of the skin was very small, as with a dull blade. The perforation was from a third to half an inch in breadth.

Q. Would death have ensued from the wounds in the left side?

A. By process of inflammation it might; by process of suppuration the patient might recover.

Cross-examined.—Q. What did you observe of Judge Wilkinson's wounds on visiting him in the jail?

A. On attending Judge Wilkinson in jail with my partner Doctor Powell, his attending physician, I merely saw the wound.

Q. What depth was the wound in his back?

A. I declined probing it, but from the length of the discoloration, supposed it to be three or four inches extending from near the shoulder blade towards the spine. It must have been the puncture of a very slender blade.

Q. How would it compare with the puncture in Rothwell's chest?

A. It was a little larger.

Q. Did you examine the wounds on Mr. Murdaugh's head?

A. His head had been dressed, and the adhesive plasters were not removed.

Q. What state was Dr. Wilkinson in?

A. His face and head were greatly bruised. His face very much discolored, and his eyes swollen till nearly closed.

Q. Had not the Judge some contusions about the face?

A. I did not remark them particularly.

[Witness allowed to retire. It was here announced by the Prosecuting Attorney that the evidence for the Commonwealth was through. Twelve witnesses for the defence were then called up and sworn.]

MR. JACKSON CALLED AND EXAMINED.

Col. Robertson.—Mr. Jackson, state what you know of this business.

Mr. Jackson.—I cannot say that I know any thing of either fight. I was passing Mr. Redding's in the evening. From a few doors below Mr. Redding's I heard some loud talking. I had some clothes in my hands. I went in and saw Mr. Johnson, Mr.

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Redding and Mr. Meeks. I heard Mr. Johnson talking of what ought to be done with these men. He said to Redding and the others that they ought to go to the Galt House and flog them. He asked Mr. Redding to do so. Mr. Redding did not seem to say any thing. Johnson said, "Jack, just say the word, and I'll go for my friend, Bill Holmes, and we'll give them hell!" and said he was as much manhood as ever was wrapped up in so much hide. Meeks said, let us go any how, and we'll have a spree. After this, Mr. Redding said, "no, I'll see them another time and get satisfaction."

Sometime after, I met Mr. Johnson in the street, and tried to pass him, but he stopped me, and I asked what he wanted. He said, I am going after Holmes and think you ought to come to the Galt House; and, that Jack Redding was a fine man and good citizen, and that we ought to see him righted. I refused to interfere, saying I was not a man of that character, and I would do my own fighting, and let others do the same.

Q. Meeks was the same man who was afterwards killed?

A. Yes. I saw him fifteen minutes after he died; he was on a cot in the Galt House.

Q. Did not Johnson make use of some strong expression when you observed you were not a man of that character?

A. He observed, church, hell, or heaven, ought to be laid aside to right a friend. I told him he had better not have any thing to do with these men.

Q. Was Meeks with Johnson at the time?

A. No.

Cross-examined:—Q. Did Johnson tell you a fight was intended?

A. I judged it from the way he talked. I told him it was not my character to seek places of quarrel.

Q. What brought you into the shop?

A. I went, because I heard loud talking. I heard Johnson talking loud; the high words brought me into the shop.

Q. Why, on that occasion, were you induced to go in, if your character was not of a fighting nature?

A. I had no reason but because I heard the loud talk—louder than common.

Q. Who was in the store when you went in?

A. I saw Mr. Craig, Mr. Paris, Mr. Johnson and Mr. Redding. I do not remember whether it was Mr. Craig or Mr. Redmond—Meeks was there too.

Q. And Johnson said, "Jack, just say the word, and I'll go round and get my friend Holmes?"

A. To "give them hell."

Q. What did Redding say to that?

A. He discouraged the idea.

Q. Were you examined before in the examining court.

A. Yes.

Q. Did you then tell of Johnson inviting you to the Galt House?

A. I think I did.

Q. How long did you stay in the shop?

A. About five minutes.

Q. Did you particularly remark Meeks?

A. Yes; he appeared to be excited, and directed his conversation to Mr. Redding.

Q. What part of the store was he in?

A. I don't think he was in the house. He had one foot on the step of the door.

Q. Which was it, Mr. Craig or Mr. Redmond, was present?

A. I think it was Mr. Craig.

Q. Where did you next meet Mr. Johnson?

A. In about fifteen minutes after, I met him going towards the market.

Q. In what direction?

A. From Mr. Redding's corner towards Market Street in an opposite direction from the Galt House.

Q. Were there not boys in the shop?

A. I do not recollect seeing any.

Q. Did Mr. Redding agree to Mr. Johnson's proposition?

A. No.

Q. When in the shop Johnson said he would go see Bill Holmes and his friend, and go up and give them hell, what did Mr. Redding say to that?

A. Mr. Redding said, no.

Q. When you next met Johnson, in what direction with respect to the Galt House was he going?

A. In a direction from the Galt House.

[Allowed to retire.]

MR. E. B. DEERING CALLED AND EXAMINED.

Col. Robertson:—Mr. Deering, what did you see of this affair.

Mr. Deering:—I was passing down Market-street, about sun-down, and near the Market-house. I saw Mr. Johnson, Holmes, and others, talking about Mississippi gentlemen who had treated Mr. Redding very badly. I went on, and returning again between Fourth and Fifth streets, I met Mr. Johnson, who asked me about Mr. Turner. I asked him what was the matter? He said he wanted officers to assist them, and I said he'd be late to get officers, for they would be gone. He said there was enough gone there, that if they came down their hides would not hold shucks. Curiosity afterwards brought me to the Galt House to see what was going on; the first I saw was Oldham. Mr. Redding was in the bar-room, with a piece of paper in his hand. I went away towards home, and some time after returned, and found a good many persons in the bar-room. I saw a gentleman with a drab coat coming in, and heard Mr. Redding say, he was the gentleman that drew his knife. He said, "if you say so, you are a damned liar," and Meeks came up and said, "you

"are the damned little rascal," and struck at Murdaugh with the whip two or three times. I then left.

Q. When Johnson that evening asked you to go to the Galt House, did you understand by him that he was to take part in what was to be done there?

A. He did not so express himself.

Q. When you saw the talking at the end of the market, did Johnson seem much excited?

A. I think he did.

Q. Were those he talked to, excited?

A. Not that I could see.

Q. What did Johnson say?

A. He said the Mississippians ought to be taken out and get a genteel flogging.

Q. Did you see Mr. Redding and Mr. Rothwell at the Galt House?

A. Yes; and I asked Rothwell what was the matter. He said he was not so very well pleased.

Q. Is Mr. Holmes a very large and stout man?

A. He is a very large and stout man; but I knew him for five years when I was Captain of the watch, and considered him a very peaceable man, though reputed one of the stoutest men in Louisville.

Q. Are not Mr. Halbert and Mr. Oldham also very stout men?

A. Yes; Mr. Oldham is considered a very stout man.

Cross-examined.—Q. What time in the evening was it when you saw Mr. Holmes and Mr. Johnson talking?

A. It was near sun-down.

Q. How long were they talking?

A. I don't know. I left them talking there.

Q. When you next saw Johnson where was it?

A. I think he was coming from the Mayor's office.

Q. Where and how long did you see Oldham at the Galt House?

A. I saw him going in but did not see him again that evening.

Q. What time was it?

A. It was dark—about half an hour before the fight.

Q. Did you, after that, see him in the bar-room?

A. I did not.

[Allowed to retire.]

MR. ALFRED HARRIS CALLED AND EXAMINED.

Col. Robertson.—Mr. Harris, state what you know of this business.

Mr. Harris.—I met Mr. Johnson near my own house that evening. He was accompanied by Mr. Shore. He told me about three Mississippi gentlemen who had insulted Mr. Redding, whose friends should go to the Galt House. He asked me to go. I said I would not. He said, "are you a friend of Mr. Redding's?" I said yes; there was no man I felt more friendly to, but if he had been assaulted, as Mr. Johnson stated, the law was at his side, and that

the thing was so far past now that it was not worth while to go. He said, "then you won't go?" and I said, I would not. I heard no more of it till next morning.

[Allowed to retire.]

MR. BENJAMIN OLIVER CALLED AND EXAMINED.

Col. Robertson.—Mr. Oliver, state what you know of this affair?

Mr. Oliver.—I was on Jefferson street, and on my way home, at Zanone's corner some one asked me if I had heard any thing of the fracas at the Galt House. I said, no. I then met Meeks. He and myself and Taylor and Mr. Johnson went from the Galt House to the opposite coffee house. When I heard Meeks proposing to go to the Galt House, I thought to stop him and talked to him about it. He had his knife out and I said to him, "Mr. Meeks give me your knife to cut my nails." He gave it to me. He said he must go to the Galt House for he was bound to have a fight that night, and by G—he'd have it. He went, and in some time came back and asked for his knife, and I gave it to him and he went over.—Some time after he came over again and wanting to get the knife, afraid he'd get into some scrape, I said, it was strange he would not lend me his knife to pair my nails after so long an acquaintance. He said, my dear sir, I thought you had done, and he gave me the knife. He then started for the Galt House, saying he was bound for the Galt House that night and would go. He went, and sometime after I followed. When I followed him and entered the Galt House, shortly after, I heard the word that Meeks was a dead man. I went into the bar-room and saw that he was dead. I put my hand on him and found life was extinct. I then retired to the reading room and saw Mr. Holmes was wounded, and a Doctor tying up his arm. I then saw some fuss towards the stairs and a chair moving in the air. After a while Mr. Throckmorton asked if any one knew him well, he asked me to help and put him on a cot. I did so. Meeks was a small man. He had been keeping bar for Mr. Dewees on Wall street.

[Allowed to retire.]

MR. WILLIAM MILLER CALLED AND EXAMINED.

Col. Robertson.—Mr. Miller, state what you know of this affair.

Mr. Miller.—I was on third cross street in the evening about 4 o'clock; and, between a tin shop and the corner heard that an affray had taken place on the corner and being on the city grand jury I thought I would enquire about the matter. I went into the shop and asked for two names of those who had seen the fray; and got those of Craig and Redmond. Mr. Halbert came in and said a good deal of what he'd do. I went home and remained for some time and then went to the Galt House to my supper. As I entered the bar-room, I observed Mr. Redding say

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to Judge Wilkinson, that if they'd come out into the street without their weapons, he would fight the whole three; and the Judge said, he did not want to have any thing to do with him. Mr. Redding repeated his observation and the Judge made the same reply at least twice. I sat in the corner and was chatting, when Marshall Halbert passed near me, and I advised him to take his friend Redding away and I said I was on the grand jury and had names down which would enable me to take care of the matter. Some one made some speech about steaks and passed on; the speech was as if I ought to leave the room, or I'd see beefsteaks served up. I shortly after heard it proclaimed at the counter, "there they are—all three of them;" and the crowd gathered to the counter. I left the room and went out to one of the clothing stores. While there I heard a pistol fired and some time after returned and the affair was over and Meeks was killed.

Q. Do you know Johnson and that it was he talked about the steaks?

A. I have seen him, but cannot say he was the person talked about the steaks.

Q. Do you believe he was the man?

A. I do, but could not affirm it positively.

Q. What was the date of this transaction?

A. I think the 15th—it might be from a week to ten days before Christmas.

Q. Do not the boarders collect in the bar-room a short time before supper?

A. Yes; generally from ten to fifteen or twenty minutes.

Q. Was the navigation of the river open at the time?

A. I cannot now say.

Q. Was Mr. Marshall Halbert a boarder in the house at the time?

A. He was.

[Allowed to retire.]

MR. GEORGE WAGGRY CALLED AND EXAMINED.

Col. Robertson—Mr Waggy state what you know of this transaction.

Mr. Waggy—I was sitting in the bar-room of the Galt House and talking to Mr. Miller when some one turned round and said "there is one of the men." Some one said to Mr. Miller, "we'll have some steak after a while for supper." Another person came along and said, "we'll have a hell of a fight here just now." Mr. Miller advised Mr. Halbert to take away Mr. Redding.

Q. Do you know the person who spoke about the steak?

A. No, I would not know the person.

Q. Well, go on.

A. Shortly after, I saw the three men enter, and when the damned lie was given I saw Meeks strike at the smallest and saw dirks and knives and canes

in the fight. Some time after, I saw Rothwell come round, and blood flowing from his wounds.

Q. How many did you see beating Murdaugh near the dining room door?

A. I saw two men beating the small man who I suppose was Murdaugh.

Q. Who had the bowie knife?

A. One of the three that came in abreast.

Q. Did you know any of the parties?

A. They were strangers to me on both sides.

Q. Did you see any of the business in the passage?

A. I saw one, said to be Mr. Wilkinson, going up the stairs and a chair thrown at him. I also saw a pistol fired.

Q. Where did you then observe Mr. Holmes?

A. In the reading room with his arm wounded.

[Allowed to retire.]

GENERAL CHAMBERS CALLED AND EXAMINED.

Col. Robertson.—General Chambers, state what you saw at the Galt House.

General Chambers—On going into the bar-room of the Galt House, I observed persons that I was not in the habit of seeing there, which created in my mind some suspicions. I was at the fire place and made some enquiry of the cause. Shortly after I observed Mr. Redding make use of very opprobrious language to Judge Wilkinson and the Judge said, "if you lay your hands on me I'll kill you." Mr. Redding made some remarks as if he did not understand him, when the Judge faced round and repeated what he had said. He then left the room. In ten or fifteen minutes he came back, and on his return he began to walk backwards and forwards. When he came in, he was followed by two persons. He had not walked more than twice when the crowd got round those two who had followed him in. I then heard some angry words and the fray commenced. One of the persons broke off and got towards the supper room door followed by Mr. Rothwell beating him with a stick very severely. Mr. Rothwell partly lost hold of his stick and endeavored to catch a fresh grip, and on resuming his hold struck at the person again, when the Judge stepped up and made a thrust of his bowie knife at him. Rothwell turned his face to see who had struck him. Just then I saw another man fall, and observed, "there was one gone." I turned my attention to another corner, and saw one of the gentlemen down, and a large man beating him very severely. My attention was next directed to the other corner where the first stab was made and I saw Meeks lying dead.

Q. Are you sure whom it was you saw Rothwell beating in the other corner?

A. I think it was the Doctor and that Rothwell was beating him.

Q. Can you repeat any of the language used by Mr. Redding to Judge Wilkinson when he was abusing him?

A. I think part of the language was, "you are a damned rascal and a coward and a pretty Mississippi judge."

Cross-Examined:—Q. In what part of the room was it that you saw the Judge make the first thrust of his bowie knife at Rothwell?

A. It was near the dining room door; in the opposite corner from where Holmes had the man down.

Q. How far might it be from the passage door into the bar-room?

A. It would be about 24 feet.

Q. Describe the relative places and distance between them?

A. It was in the left hand corner as you face the fire place that Holmes had the man down; Rothwell was stabbed in the opposite corner—probably the two positions were 20 feet apart. Rothwell at the time was striking a man that I thought was Doctor Wilkinson.

Q. Are you not now sure that it was Mr. Murdaugh?

A. I am not now satisfied that it was. However, they were all strangers to me except Judge Wilkinson whom I had known a little.

Re-Examined:—Q. Did you observe how the Doctor had got to the left hand corner?

A. While he was beaten he seemed to take a circuit in that direction till he fell.

Q. Was your attention confined to that part of the fray?

A. When they beat round to the corner where I was, an opening was made and my attention was immediately attracted to where Meeks had fallen.

[Witness allowed to retire.]

MR. F. DONOGHUE CALLED AND EXAMINED.

Col. Robertson—Mr. Donoghue, state what you know of this business.

Mr. Donoghue—I was in the Galt House on the evening of the affray a few minutes before the first supper bell rang, and saw Mr. Rothwell and other gentlemen at the fire in the bar-room. One of them walked to the bar. I started from the fire place to go to my supper, and as I went I heard Mr. Rothwell ask some one—I think it was Mr. Redding—if they were there? He was answered, no. He then said, "come, let us go up stairs and bring them down and give them hell!"

Cross-Examined:—Q. Did you board at the Galt House?

A. No, I boarded at Mr. Green's, three squares from that on Market street.

Q. Did you see the fight?

A. I did not come back till all was over.

Q. Where was Rothwell when you returned?

A. He was still lying in the bar-room.

Q. Did you frequent the Galt House much?

A. I was there frequently that week—I had some acquaintances there.

Q. What other persons besides Rothwell did you see in the bar-room at first?

I did not know any others of the men—but think it is likely I saw Mr. Johnson there.

[Witness allowed to retire.]

MR. WM. SUTHERLAND CALLED AND EXAMINED.

Col. Robertson—State to the court Mr. Sutherland, what you saw of this transaction.

Mr. Sutherland—The first thing that drew my attention was Mr. Redding abusing Judge Wilkinson. The Judge was walking across the floor and Mr. Redding abusing him for some little time and the Judge left the room. The fuss was hushed up for a little while, and Mr. Miller observed to Mr. Redding that, that was not the way to do business and that he ought to get their names and bring them before the grand Jury. Mr. Redding said, he had got the names. I had my face towards where Mr. Miller was sitting. Mr. Miller had his face turned towards the dining room door. I heard a fuss in the direction of the bar, and on turning, saw a crowd. Some one said, there would be some shooting; and I got out of the room and tried to see through the window what was doing, but could not see very distinctly. I remained at the window till Mr. Murdaugh came and got on the stair steps, when some one struck at him, and he sort of fell forward, but recovered and got up the steps, when some one fired a pistol up the stairs, and I very quick got over the banisters.

[Allowed to retire.]

JOSEPH BROWN CALLED AND EXAMINED.

Col. Robertson—Mr. Brown, state what you know concerning this affair and whether you were examined at the examining court?

Mr. Brown—I was not examined at the examining court. The evening of this affair I had been engaged at Louisville for some ten or twelve days and had, about supper time, come to the Galt House to supper. When I entered, I saw General Chambers sitting at the fire. Mr. Miller was there also. The first thing that attracted my attention was, Mr. Redding abusing Judge Wilkinson. Judge Wilkinson was walking back and forward with his right hand in his coat pocket, when he said, if you touch me I'll certainly kill you. He then left the room, and what had taken place became the general subject of conversation. Some time intervened, when the Judge returned to the room with Dr. Wilkinson and Mr. Murdaugh whom I did not then know. I then remarked to General Chambers that there would be some difficulty. Before this, Mr. Miller

had said to Mr. Redding, "hush that stuff—it is not the proper way—get the names and we'll have them before the grand jury,"—when a man stooped down to Mr. Miller and said, "hush, you, Billy Miller, if it comes to handy cuffs the boys will settle it." I then determined to leave the room, and as the gentlemen entered, I passed out and saw the crowd gather round them. When I got near the stairs I met Mr. Everett going out. From the third or fourth step I could see into the bar-room through the window. The crowd was moving about as if in a scuffle in a kind of circle round the room by the dining-room door. The first licks I had seen struck, were by a large man with a stick. He laid on Mr. Murdaugh. The next I saw in the fight was this gentleman they call Doctor Wilkinson, falling at the left hand side of the fire place. The room began to get clear, the rush being made into the passage. I retreated to my room and out on the porch and as I made a turn I saw Mr. Murdaugh was struck with a chair as he ascended the stairs, and Judge Wilkinson also had a chair thrown at him as some one hallooed, shoot the damned rascal, and immediately a pistol was fired.

Q. Where were you before the fight began?

A. In the bar-room.

Q. When you were on the stairs what portion of the fight could you see?

A. I could see through the glass window all of the fight opposite the window.

Q. How far was it from where you stood to where the fight was going on?

A. It might be about thirty feet.

Q. Did you see Dr. Wilkinson when he was knocked down near the fire place?

A. Yes, and I thought when he fell that his head struck the grate or fender.

Cross-Examined.—Q. How long were you at the Galt House then?

A. About ten days.

Q. During that time were strangers coming and going?

A. Yes, continually.

Q. It was no uncommon thing to see strange faces in the bar-room?

A. I always saw many strange faces there.

Q. Did you see Judge Wilkinson inflict the wound on Rothwell with the bowie knife?

A. I did not see a bowie knife with Judge Wilkinson nor did I see the wound inflicted. All I saw distinctly was a big man striking with a stick.

Re-examined.—Q. During the time you were at the Galt House was there much communication by the river?

A. No, I think not.

Q. Did you notice as many strange faces before

that evening of the fray in the bar-room as you used on former visits?

A. I did not think there were so many.

Re-Cross-Examined.—Q. Have you not remarked that business men congregate in the bar-room about the time the stages arrive, to learn the news by them, and see the names entered on the register?

A. Yes, it is customary.

[Witness allowed to retire.]

MR. MARTIN RAILY CALLED AND EXAMINED.

Col. Robertson—State, Mr. Raily, what you know of this affair.

M. Raily—I came into the Galt House between sun-down and dark. When I got in, there were but few there. Afterwards numbers crowded in. I was at the fire place and a gentleman stood at the fire, I think it was Mr. Reaugh, who said if there was any fighting to be done he should be in it. Mr. Miller said to Mr. Redding that it was not the way to settle the matter; that he ought to get a writ and have them taken. Redding said he had applied for the names. Shortly after I heard Judge Wilkinson tell Mr. Redding that if he meddled with him he would kill him. Then Judge Wilkinson passed out of the room into the passage and Mr. Redding shortly after left the room also. After Judge Wilkinson returned he had got nearly across the room towards the dining room door, when Mr. Redding entered the room and as the Judge whirled and returned, Redding crossed his path towards the counter. Mr. Murdaugh and Doctor Wilkinson then came in. Mr. Redding said, these are the three gentlemen who assaulted me in my own house. When he said this, one of the three said to him, "I understand you said I am the person who doubled teams on you this evening; if you say so, you are a damned liar." Another came up and, said he was, and struck at him. A big man also struck at him with a sword cane and as he was striking, the scabbard part flew off and he continued beating with the spear part. The crowd was getting up to the fire place and Mr. Rothwell came into the corner and was either assisting to beat, or to save, the Doctor, when I saw a person from the folding door stab Rothwell. Another person took up a chair and attempted to beat at the person that stabbed, but finally laid it down and pursued him. Shortly afterwards I heard a pistol fired.

Q. Did you see Oldham with any weapons?

A. I saw him with a bowie knife wiping the blood off it with his handkerchief.

Q. What time that evening did you arrive at the Galt House?

A. Between sun-down and dark. I got shaved at the barber's shop and then went to the Galt House.

Q. Are you sure what kind of stick the big man used, when beating Murdaugh?

A. It was a sword cane. I saw the cane part fall on the floor, and the spear part remain in his hand.

Q. Was Oldham in the room then?

A. No, I saw Oldham, but not in the room when the fighting was going on.

Q. You are certain you saw him wipe the blood from his bowie knife?

A. I think it was, for certain, the man they called Oldham.

Q. Who thrust the bowie knife into Rothwell?

A. I did not know the person. If it had been even an intimate acquaintance I should not have known him.

[Allowed to retire.]

MR. JOHN C. DAVIE CALLED AND EXAMINED.

Col. Robertson—Mr. Davie, state what you know of the affair at the Galt House.

Mr. Davie—I know nothing of the affair at the Galt House.

[Allowed to retire.]

MR. P. S. BARBER CALLED AND EXAMINED.

Col. Robertson—Well, Mr. Barber, will you state what you know about this hat, [handing a hat to Mr. Barber.]

Mr. Barber—This is a hat I sold to Mr. Murdaugh. It was the day before this affray took place. It was then a sound hat. At present I see defects in it. It must have been cut by some sharp instrument—here in the side of the leaf and also in the side.

[Allowed to retire.]

JOHN C. DAVIE RE-CALLED.

Q. How did you come into possession of the hat?

A. Judge Wilkinson, Mr. Murdaugh and the Doctor sent for me to the jail and requested of me to go to the Galt House and ask for the key of the room 35 and I did so. A servant brought me to the room, and I got a black satin vest with blood on it, and the hat and drab coat, with other clothes, which, according to directions I had got, I packed up and took to my store. I observed the hat had some cuts on it. It was in my possession till brought to the examining court, since which, with the other things, it has been in possession of the clerk of the City court.

[Allowed to retire.]

MR. EVERETT RE-CALLED.

Q. What room did these gentlemen occupy?

A. Room 35.

Q. Had any person access to that room from the time these gentlemen were arrested till Mr. Davie went there by their directions?

A. No, not any person. It was locked up from

8 or 9 o'clock that evening till Mr. Davie entered it. The servant had charge of the room.

MR. JAMES E. PEARSON CALLED AND EXAMINED.

Col. Robertson—Mr. Pearson, detail what you know of this business.

Mr. Pearson—On the evening this affray took place, I was going up street before sun-down and at the corner opposite Mr. Redding's store, three gentlemen were on the pavement and left for the Galt House. I went to the Galt House before supper time and got behind the bar and stood at the fire. Captain Rogers remarked to me, that there would be a fight, from the crowd he saw. He asked, where Maj. Throckmorton was? I turned out and thought I saw the Major talking to Captain Rogers, when I came back into the bar. Captain Rogers asked me did I know who the persons in the bar-room were? I said I knew Redding. But presently I saw General Chambers and I thought I would go round to talk with him. I went to where General Chambers stood, and we fell into conversation. Mr. Rothwell was there with a stick in his hand, and Mr. Reaugh, Mr. Hainbert, and Mr. Holmes were also there. Judge Wilkinson by this time was walking up and down the room, and Redding abusing him very much, saying, he was a pretty sort of Mississippi Judge; that he was a rascal, swindler, and assassin. The judge said, "my friend, you may say what you please, but I do not fight men of your profession." Shortly after, the judge left the room, and staid away a little time. When he returned, there must have been fifty men in the room, which induced me to go to the Judge, and ask him to leave the room. He made a step or two with me to retire, when about twenty men were crowding in, and we heard some angry words, and the affray began. The Judge turning, and seeing this, said, "sir, I cannot leave the room and my friends, till I see how this affair with these men ends." He did not get from me immediately. I saw persons strike the man with the drab coat, but think it was Mr. Rothwell struck with the stick. I observed some person catch at a chair, and first thought he was taking up the chair to fight with, but soon perceived he was only leaning on it for support. My attention was attracted to another corner, and I saw a person knocked down very suddenly. I turned next to where the other man had been struck, and saw Meeks attempting to stagger towards the counter, when about half way, he fell forwards.

Q. Was he the man that had the cow-hide?

A. Yes, it was the person that was killed that had the cow-hide.

Q. Which was the person he was engaged with?

A. Murdaugh; he was trying to press on Meeks, who was striking him off with the cow-hide.

Q. What part of the room did the person lay in whom you saw knocked down?

A. If you draw a line from the passage door to the fire-place, the part where he lay would be on that line.

Q. Did you see Judge Wilkinson make a stab from the door-way towards Rothwell?

A. Yes; but I think that stab was past Rothwell at Holmes, who was engaged with the Judge's brother. Holmes had his arm badly cut. I heard him say he was badly wounded in the arm.

Q. Did you board at the Galt House?

A. Yes, about that period.

Q. Which is it, before or after supper, the crowd generally goes to the bar-room to hear news and look at the register?

A. Generally after supper.

Q. How long before supper do the boarders assemble in the bar-room?

A. Generally twenty minutes before supper time; sometimes less; I have often been late, and obliged to go to the second table.

Q. When Holmes said he was badly wounded, where was he, and was he armed?

A. He was going out of the room into the passage, and as I thought took out a bowie knife.

Q. Did you notice many strangers in particular that evening in the bar-room?

A. I heard there were strangers there, but did not notice many.

Q. Was the river in a good state of navigation?

A. I think the river was very low then, and navigation not open.

Q. Were you acquainted with Mr. Holmes's person?

A. I had never seen Mr. Holmes before.

[Witness allowed to retire.]

MR. MONTGOMERY CALLED AND EXAMINED.

Col. Robertson:—State, Mr. Montgomery, what you know.

Mr. Montgomery:—I was in the bar-room, sitting near the fire, when the fuss began near the bar and counter. I heard the gentleman say, "there are the three now." I then heard one of the men say, to keep their hands off him, and not to touch him, or he'd kill them. I saw a gentleman draw a stick or sword cane, I could not tell which, and I retreated out, and was pretty near the stairs when the pistol was fired. I heard either Doctor Wilkinson or Mr. Murdaugh desire the crowd to keep off, and say, if they touched them it was at the risk of their lives. I understood the reason of their giving that warning was on account of what had happened at Redding's store.

Q. Did you not hear what passed between Judge Wilkinson and Mr. Redding?

A. I heard some words pass, but could not tell what they were.

Cross-Examined:—Q. Where do you live?

A. I live at Greensburgh.

Q. How did you happen to be in Louisville?

A. I was there upon business.

Q. Are you well acquainted in Louisville?

A. I am a stranger there, but know some of the citizens.

Q. When you heard the first words spoken, did you see the speakers?

A. After the words had passed, I could see them. I heard one say, "don't you interrupt us, or it is at the risk of your lives."

[Here the evening being far advanced, the propriety of closing, for the day, was suggested, and the court adjourned to half past 8 o'clock next morning.]

### THIRD DAY.

Wednesday, 15th March, 1839.

The court sat at half past 8 o'clock, and the Clerk having read over the minutes of the previous day's proceedings and called over the names of the jurors, during a short delay waiting for the appearance of the gentlemen on trial, Mr. Hardin rose to ask the court for instructions to the court-keeper, not to keep such strong fires in the stoves: [one, at each end of the Attorney's bar, Mr. H's seat being between the two stoves.] The Court facetiously remarked, that as the gentleman did not like to be placed between two fires, there could be no objection to acceding to his wishes. This was a happy hit, as Mr. S. S. Prentiss sat rather to Mr. H's left hand, and Judge Rowan to his right; and it was understood both were preparing a battery of eloquence to fire off at him in the arguments to evidence. Mr. Davis, one of the town Attorneys for the defence, hoped the court would allow the stove to remain lit next the end of the bar appropriated for the gentlemen on the defence. The court observed that the gentleman, [Mr. Hardin] would not of course impose a greater degree of coldness on the opposite gentleman than they could bear; if they felt chilly, they too ought to be indulged.

By this time the three gentlemen on trial and their counsel came into court, and the examination of witnesses was taken up.

MR. PEARSON WAS THEN RE-CALLED AND EXAMINED.

Col. Robertson:—State the fact you informed me of last evening.

A. On coming back into the bar-room, the first person I met at the bar-room door was Mr. Marshall Halbert: I requested he would have the business stopped. Mr. Halbert said, no, let it go on. The next person I met was Mr. Reaugh, to whom I said the same. He concurred with me, and thought it

ought to be stopped. Mr. Halbert's feelings appeared to be entirely on the other side.

[Allowed to retire.]

HENRY BANKS CALLED AND EXAMINED.

Mr. Banks:—I was walking from Market to Main street, when I discovered a little difficulty at Redding's shop. I made some enquiry about the fuss, and was told by a young man, named Hill, about the Mississippians. I then turned to Mr. Redding, and asked if he was hurt. He said, not. I asked him who they were. He said they were three Mississippians, and that he'd have satisfaction. He said he'd whip all three in a room. I went on to the Stage Office, and was sitting there. In about an hour and a quarter a young man came in and said there would be the damn'dest work at the Galt House in short that ever I did see. [Objected to.] In about fifteen or twenty minutes the affray in the Galt-House began. All I saw in the Galt House was, Murdaugh knocked down on the steps, and afterwards fired at. There were two balls discharged by the shot at him; one struck in the casing, and the other in the wall at the left hand side.

Q. Who fired the pistol?

A. Oldham. The young man said something about a pistol, going up the steps; Oldham said, there it is, damn you—you have it, and fired at the same time.

Q. Who knocked Murdaugh down on the stairs?

A. I do not know.

Cross-Examined:—Q. What answer did Redding make to your first enquiries of him that evening?

A. That he was not hurt.

Q. What sort of satisfaction did he say he would have?

A. He did not say what kind.

Q. Then it might be by law as well as any thing else?

A. He did not say whether by law or otherwise.

Q. Do you keep the Stage Office?

A. No; I do not.

Q. What passed in the bar-room of the Galt House?

A. I did not see what passed there. I only came into the Galt House as the Mississippians went up the stairs.

Q. Did you go up the stairs?

A. I went up when these gentlemen were arrested?

[Allowed to retire.]

DR. GRAHAM CALLED AND EXAMINED.

Col. Robertson:—Doctor, state what you saw of this business.

Dr. Graham:—The first I recollect of the affair was in the bar-room of the Galt House. Mr. Redding was abusing Judge Wilkinson. The Judge made no remark for some considerable time. I went

away upon some business, and in about twenty minutes returned again to the Galt House. I saw the servants peeping into the bar, and guessed there was something like an exhibition going on. I went in and saw the Judge and Redding moving a little backwards and forwards, abusing and calling hard names, such as coward, liar, villain and scoundrel, and saying, 'he should like to know in the name of God, who made him a judge, and that he must have taken the title on himself; and that he was too big a coward to do any thing right.' He continued so long that I got tired, and turned to speak to some one. Judge Wilkinson paced the room, pulled his cap over his face, and, as I thought, assumed the philosopher, or tried to do it. He walked to the counter and put his cap before his face, one hand in his pocket, and walked along the counter. Mr. Redding going to the extreme of exasperation all the time. Redding at last pulled his hand out of his pocket, and said he'd whip the whole three if they'd go into the street. The judge said, he did not wish to fight or quarrel with a man of his profession. I turned round and in a short time Judge Wilkinson passed out of the room. Some one observed, "the damned rascal has run." I don't think it come from Mr. Redding. I walked into the passage to go to the bar for the purpose of enquiring the cause of the quarrel; when in the bar I heard the word lie, and damned lie, in succession. I saw a small man, with a drab coat, holding a knife in this position, [showing position] with his back to the writing desk. I recognised him only as a small man with a drab coat. He had a small knife, held that way, and he spoke in a threatening manner. He hallooed out, "stand back and don't crowd on me, or I'll kill the first man that rushes upon me." I thought he looked like a rattling viper that would say, don't step on me or I'll bite you. I heard other voices cry out, stand back, G—d damn you, or I'll kill you! At that word, I saw a cane strike at his head, and most probably hit on the left shoulder. As he uttered the exclamation, the blow came. He held his knife, and from the violent manner in which he shook it, and the manner in which he spoke, I conceived he felt danger. I did not see any one touch his hand; but I think before he lowered his hand, I saw a cane of the size and appearance of a sword cane, strike him. A crowd and general row commenced and chairs were raised—some rushing in and some rushing out, and such confusion ensued, that I saw no more of that part of the affair. After a little, I saw Doctor Wilkinson, or a man, lying on the floor, making an effort to get up, but every effort, he was beat down by the person leaning over him; I then saw the same person take him by the collar with one hand, and beat him with the other; I hallooed across the counter, to part them—that it was a shame.

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Q. Did you see Meeks killed?

A. Towards the dining room door I saw a man fall forward. I saw him first leaning on a chair, and then fall, leaning on his elbow. I saw an arm from behind him make, as I thought, a stab; but it may have been some person supporting him, judging from the rattling of the chairs.

Q. Then what made you think it was a stab?

A. The quickness of the stroke made me think it was a stab. I just saw the arm round the falling man. This I did not state at the examining court.

Q. Did you know Rothwell?

A. I did not.

Q. Who was beating Doctor Wilkinson?

A. I cannot say; it was a very large man.

Q. When the Doctor fell, did it seem to be by a trip, or how?

A. I never saw a man knocked down as suddenly by a blow.

Q. When the fight first occurred, what was the first serious occurrence you observed?

A. After a while I saw a man fall on the floor, and Mr. McGrath observed, there is one gone, can you do any thing for him? I then got over the counter and went to the person lying on the floor. I discovered a small opening in the abdomen and taking off his waistcoat found his bowels were protruding. I saw that the blood vessel supplying the lower system was severed. I commenced trying to put in the bowels but found the man was dying and I desisted, saying, it was no use. Several persons asked about his name, but no one appeared to recognize him. I then passed on and saw Rothwell lying in the other corner on his right side and Doctor Johnson dressing his wounds.

Q. Did you observe a cowhide with Meeks when you went to him?

A. Yes, it was lying near his hand. It had a small whip end tied in a knot. I took it up, saying, it might be a letter in the alphabet; and I had it handed into the bar to be locked up.

Cross-Examined.—Q. Did you hear the lie given when the blows began?

A. Yes, I heard the lie and the damned lie, more than once.

Q. By whom were they given?

A. I cannot tell by whom.

Q. Who warned the opposing party to stand back?

A. I think it was Mr. Murdaugh used the admonition to stand back or he'd kill them. I was at the time asking about the persons so excited. I was in the bar, and the counter and some distance were between me and them.

Q. Was it a white handled knife Murdaugh held in his hand?

A. I only saw the blade of the knife. It was a knife like that, [pointing to one on the table,] and

judging from the glistening of the blade which was highly polished, I thought it must be a new knife.

Q. What were the exact words used?

A. I think they were, "stand back or I'll kill you."

Q. Might it not have been from some one opposed to Mr. Murdaugh?

A. It was in a loud voice and I did not then think it was Mr. Murdaugh.

Q. Are you not now satisfied it was not Mr. Murdaugh?

A. I am of opinion myself that it was Mr. Murdaugh.

Q. What occurred when the word damned rascal, or, it's a damned lie, was uttered?

A. I saw a stick come at Mr. Murdaugh, as it was uttered.

Q. How far off were you?

A. I was about as far off as yon stove.

Q. Did not Mr. Halbert know and recognise Meeks as he was dying?

A. Several came up to ask who knew the man as I was trying to put in the bowels, but I did not notice whether Mr. Halbert came up or not. One or two of my friends and some strangers came up to ask.

Re-Examined.—Q. State what Mr. Halbert said when the affray was all over.

A. Marshall Halbert came up to the counter immediately after the 'fray, before the room was cleared and asked me to drink. He seemed disposed to communicate freely, and said, "by G—d I howed a wide row this evening—we took it with a rush; Dr. Wilkinson, the first man that entered, I downed with a chair and Bill Holmes mounted him and rode him round the room. The Doctor's back was to me when I downed him, it was rather bad, but by G—d, I could not help it. Bill then pounded him so that he fell quite limber on the floor and I thought he was dead; but the Judge came round and Bill took a chair, when the Judge throwing up his arm with his bowie knife in his hand, struck Bill, and by G—d, I thought his arm was cut off."

Q. When the crowd closed upon the little man in the drab coat did he advance?

A. No, he kept rather backing.

Q. Were they large men that were in the crowd?

A. Yes—and very large men.

Re-Cross-Examined.—Q. Were you not examined in the examining court?

A. Yes.

Q. Was Mr. Halbert there?

A. He sat beside me in the court.

Q. Did you state the same there as here?

A. I stated the same there as here.

Q. Did you see Halbert performing those great actions he boasted of?

A. I did not see him at all during the action

My attention had been attracted from that quarter of the room. I myself think Halbert was bragging of more than he did.

Q. Which was it; you or Halbert, first invited to drink?

A. I am not sure which. It is probable I asked him, but I am not certain.

[Witness allowed to retire.]

THE HON. S. S. PRENTISS CALLED AND EXAMINED.

Judge Rowan—Mr. Prentiss, please to state what you know of these gentlemen's character and standing in society.

Mr. Prentiss—I have been acquainted with Judge Wilkinson intimately in Mississippi for six or seven years. My profession has brought me into intercourse with him as a practising lawyer. I believe there is no man in the state of Mississippi whose character stands higher than that of Judge Wilkinson, particularly to a marked extent for a modest and retiring disposition. I know this to be his character as a legislator and a public man.

I know his brother Doctor Wilkinson, and as far as I have known, his character is of a very high standing in the state of Mississippi.

The first time I saw Mr. Murdaugh was in the winter of '35 or '36; he was introduced to me by Judge Wilkinson as a protege of his. The Judge has acted for some time as his friend and guardian. I know the Judge and he have been very intimate, and that Mr. Murdaugh accompanied Judge Wilkinson as his friend on the occasion of his marriage. It is three or four years since I got acquainted with Mr. Murdaugh at Jackson in Mississippi; his general character is very good and stands high in every respect. I have never heard of his being engaged in any difficulty.

Of Judge Wilkinson I can speak with the utmost confidence. As a circuit Judge, a distinguished member of the Legislature, a commissioner appointed by the state to go to New York on state business, and a public man, I know that no man ever stood higher in the estimation of the south. In his public capacity he has been particularly noticed for being free from any thing like a controversial disposition. His general character is for being more retired and unwilling to meddle in controversy than others.

Q. How long have you been acquainted with him?

A. About seven years. I became acquainted with Judge Wilkinson then commencing practice in the law in Yazoo. During my professional business in Mississippi we have been thrown together very much, and I have had opportunities of knowing his friends and acquaintances and can form a fair estimate of his general character.

Cross-Examined.—Q. You say you got acquainted with Mr. Murdaugh three years ago?

A. Yes, about that time.

Q. When did he receive license as a practising lawyer?

A. I think it was last winter.

Q. Had he been qualified as such, before, any where else?

A. I do not know whether he had been in Virginia, or not.

Q. Was he not in the navy?

A. I know nothing of that. In fact I know nothing of his early history; nor would I have known of his family had not enquiry grown out of this transaction.

Q. Did not you hear Judge Wilkinson make a certain speech at the election in Mississippi?

A. I did not hear that speech delivered.

Q. Did not that speech render him unpopular?

A. The speech was talked of as being unpopular, notwithstanding which he was elected.

[Allowed to retire.]

MR. DAWSON CALLED AND EXAMINED.

Judge Rowan—Mr. Dawson, state what you know of these gentlemen's character.

Mr. Dawson—I formed an acquaintance with Judge Wilkinson a year ago. I live in Vicksburg, I have known him from general character since I have lived in Mississippi—for seven or eight years. There is no man stands higher in his state in the affections and esteem of its inhabitants. I have never heard any thing improper imputed to him.

Cross-Examined.—Q. What part of the State do you live in?

A. I live in Vicksburg.

Q. How far from Vicksburg does Judge Wilkinson live?

A. About seventy miles.

Q. How long have you resided in Mississippi.

A. About eight years.

[Allowed to retire.]

MR. ROWAN, JR. CALLED AND EXAMINED.

Judge Rowan—State what condition you found these gentlemen in on visiting them in jail, the night of this affray.

Mr. Rowan—I visited these gentlemen in jail shortly after the affair occurred. I was there in an hour after it had happened. I saw that they were very much bruised and that they had wounds and blood on them. The Doctor particularly was very much bruised and cut. Mr. Murdaugh also was very much cut and there was a good deal of blood about him.

Q. Do you know upon what occasion Mr. Murdaugh then had accompanied Judge Wilkinson from Mississippi?

A. I know that he accompanied him on the occasion of the Judge's expected marriage.

Q. Had Judge Wilkinson visited Bardstown some time before?



A. Yes, ten or twelve months before his marriage?

Q. Was his engagement with the lady whom he since married made at the time of this affair?

A. Yes, and I think the marriage was to take place about a week before this affair.

Q. Recollect if it was the Thursday after, that the marriage was to take place?

A. I think upon recollection it is probable that it was.

Q. Have you not been in the state of Mississippi and heard these gentlemen's general character?

A. I have, and know that they are spoken of as testified by Mr. Prentiss and Mr. Dawson.

[Allowed to retire.]

MR. EVERETT RE-CALLED.

Q. Mr. Everett, when did these gentlemen arrive at the Galt House?

A. They all arrived together at the Galt House about a week before this affair. They occupied the same room as Mr. Wickliffe.

Q. When was the Judge's marriage to take place?

A. I only know from the information of my family and neighbors that the marriage was to take place the Tuesday succeeding the 'fray at Louisville. The preparations for the wedding as I understood had been made.

Q. What is the general character of Judge Wilkinson?

A. So far as my information or knowledge of Judge Wilkinson goes, I have never heard any thing of him but a fair character.

[Here it was announced by Defendant's counsel that they were through with the evidence for the defence.]

Mr. Hardin stated that it would be necessary to recall some witnesses for the prosecution.]

MR. OLIVER RE-CALLED.

Q. What did you state in your evidence about seeing Holmes in the reading room?

A. I said in my examination that when I came back to the Galt House I saw some one dressing Mr. Holmes' arm in the reading room, and after that I saw the fighting at the foot of the stairs with the chair and heard the pistol fired.

Col. Roberts here rose and addressed the court for leave to introduce one more witness for the defence—Mr. Franklin Roberts—which was granted by the court.

MR. FRANKLIN ROBERTS CALLED AND EXAMINED.

Col. Robertson—Mr. Roberts, state what you know of the matter.

Mr. Roberts—All I know is that I happened to enter a coffee house on Christmas morning and heard gentlemen talking of this affair. Mr. Henry Oldham was one. I heard him say that Mr. Holmes came out with a chair, Oldham following the Judge, and that he, Oldham, took a pistol out of his pocket and

fired at the Judge. Some one asked if it was his pistol, he said, "no, it was my pistol, and I fired it, and I wonder it did not hit him for it had two balls in it."

FOR PROSECUTION—THOMAS A. M'GRATH RE-CALLED.

Q. Was the fight over before Mr. Holmes' arm was dressed?

A. Yes, it was entirely over.

Q. Was the pistol fired before Holmes' arm was dressed?

A. Yes, the fight was over five minutes at least before his arm was dressed.

Q. Did you help to take off Holmes' coat?

A. No, I did not help to do so.

Q. Do you know Mr. Oliver?

A. I do not.

Q. Have you not heard of his character and reputation?

A. I did not hear any thing about his reputation till I heard it here.

Q. Do you know Mr. Deering and his character?

A. I know Mr. Deering. I never heard any thing against his character.

MR. REDDING RE-CALLED.

Q. Was Mr. Johnson at your shop that evening?

A. I do not recollect seeing him at my shop that evening at all.

MR. CRAIG RE-CALLED.

Q. Did you see Jackson in Redding's shop that evening?

A. I did not know Jackson at that time. I did not that I can say, see such a man in the shop that evening.

Q. (For defence.) Did you hear Johnson say he would go for Bill Holmes and give the Mississippians hell?

A. I heard nothing of the kind from Johnson?

WILLIAM JOHNSON RE-CALLED.

Q. Did you see Jackson at Redding's that evening?

A. I do not remember seeing Jackson that evening. He might have been at my stall in the morning.

MR. J. W. GRAHAM RE-CALLED.

Q. State what you know of Jackson.

A. I know Jackson. I was a carpenter and he served three years of his time to me. From what I know of his general character, I would say he is a man of middling character.

Q. Would you place confidence in his statement upon oath?

A. I have no confidence in a man's veracity whose integrity I have no confidence in. I have had some dealings with him—[objected to.]

Q. State from his general character among his neighbors and acquaintances what credibility is due to him as a witness.

A. From that general character, I would say that there are a great many men I would believe in preference to him. That is, probably, owing to my opinion of the man, as I have mentioned. Mr. Jackson has made statements to me, that I—[objected to.]

Q. What do you know of Mr. Oliver's general character.

A. I have known Mr. Oliver a long time, and have heard his character spoken of. It was not very good—it was very bad—and I know it would not be entitled to any credit in the city of Louisville.

Q. Say if you know Mr. Redding and his character.

A. I know Mr. Redding. His character for integrity, industry, and veracity stands as high as that of any man in the community.

Cross-Examined by Judge Rowan:—Q. Did Mr. Jackson serve his time to you?

A. He served part of his time to me.

Q. You are a sort of steam-doctor?

A. Not exactly; do you know me, judge?

Q. Did Jackson serve all his time to you?

A. He just finished out his time with me.

Q. Is he not a hard working man?

A. Yes, when he does work.

Q. Have not you and he had differences?

A. Yes, but not of late.

Q. Are you not still acquainted with him?

A. I am, and have at different times advised him to change his habits—of late particularly.

Q. Is he not a member of the church?

A. He was that six years ago; I do not know that he is now a member of the church.

Q. Is he not, in fact, a hard-working, industrious man?

A. I would not call him industrious, though at times he works hard by spells.

Q. Had not you and he a fight some time ago?

A. Eight or nine years ago, Mr. Jackson and I had a fight.

Q. Is he not a man of family?

A. He has a wife, but I do not know whether he has children, or not.

A. Is it not your own opinion, more than his general character, you give?

A. I have heard a good many people speak very hardly of him. I have no unkind feelings towards him myself. He knows that I have within the last year advised him to change his habits, and have pointed out how he would prosper if he did so. His habits are, that when he has a job, he works hard, and then any sport carries him off to the neglect of his business.

Q. Why do you, from that, doubt his veracity?

A. I doubt his veracity from what I have heard his acquaintances, and men with whom he has been dealing, say of him.

Q. Did not Mr Jackson in the fight with you, prove rather the strongest?

A. I should say not.

Q. Did you not keep up this opinion of him from the examination at the Louisville Police Court?

A. No, for I was not there. I know nothing of what he proved; I did not even know that he had been a witness there, or was to be one here.

Q. Were you not greatly excited against these gentlemen when the affair occurred?

A. I did then think it a most outrageous affair, but I took no part about it. I spoke of it on several occasions as an outrageous act that ought to be punished severely. I was then living in Louisville; I now live in the country.

Q. Did you not so lately as yesterday express yourself in violent language about this trial?

A. I spoke of the outrage of being dragged off here.

Q. Did you not make use of violent expressions about our Legislature?

A. I said if they were in hell, and I a fireman, I would give them a good warming; because I felt aggrieved at being brought this distance from home.

Q. What do you know of the Galt House affair?

A. Nothing. I did not hear of it till next morning.

Q. Did you not go about in an exasperated manner, talking of it?

A. My excited feelings were not expressed till after the affair was over; but whenever it was spoken of in my presence, I expressed my opinion freely.

MR. REAUGH RE-CALLED.

Q. State what you know of Mr. Oliver and his character.

A. I only know Mr. Oliver by sight. I have no personal acquaintance with him. His reputed character in Louisville is not very good. I know nothing of him myself.

Q. (For Defence.) Was it not since this affair that you heard him spoken of?

A. I do not recollect having heard of him before.

MR. TRABUE RE-CALLED.

Q. Mr. Trabue, describe as particularly as you can, the appearance of Judge Wilkinson when he entered the bar-room.

A. He walked two, three, or four times across the room. He had his hand behind, and stopped in the middle of the room, a little nearer the dining room door, and seemed to face the corner where Mr. Redding was standing. He threw his head up, and cast his eye at Mr. Redding, and then at the door, as if on the look-out, and greatly excited. About that time, Mr. Redding being standing with his back to the counter, Mr. Murdaugh spoke to Mr. Redding.

Q. What did you see Mr. Halbert do?

A. I saw Mr. Halbert do nothing but tell Holmes

he had beaten the Doctor enough. He was wanting to take Holmes off the Doctor.

Q. Well, after that, did he do nothing?

A. He or Holmes—one or both, took up a chair, following the Doctor to the door.

Q. Did you hear Halbert say he had knocked down the Doctor?

A. I heard Halbert say such things, and that when he had knocked down the Doctor, Holmes jumped on him, but I am satisfied Halbert was only bragging, and that he did not do it.

Q. Could Mr. Pearson have got hold of Judge Wilkinson's arm without your observation?

A. He could, when my attention was attracted to Mr. Redding and Murdaugh; Mr. Pearson may have been nearer the Judge, and probably spoke to him in a whisper. I might not in that case have heard him, as there was a noise, and we were all under a little anxiety, expecting something would take place.

Q. (By Col. Robertson.) Was Mr. Redding out of the room when the Judge entered the second time?

A. Yes; the Judge entered first, and in a few moments Mr. Redding, who, when he entered, crossed the Judge's path.

Q. Did not a crowd rush in at Mr. Redding's heels?

A. I could not say a crowd followed Mr. Redding in, but, as I thought, seven or eight men did.

MR. HENRY OLDHAM CALLED.

Q. Were you in the bar-room when the fighting was going on?

A. No; I was going in through the bar-room door, when I think it was Doctor Wilkinson was rushing out, and cut me in the arm, and I knocked him down. Mr. Holmes then came to the passage with a raised chair, and struck at the Judge, breaking the chair against the door. The Judge ran to the stairs. Mr. Holmes struck Mr. Murdaugh at the stairs with the chair. Mr. Murdaugh got up towards the head of the stairs, and hallooed for his pistol. That put me in mind of my pistol, and I took it out and fired it at him.

Q. Where did you say, you were cut?

A. In the arm, as I attempted to enter the bar room door.

Q. Was there any concert for you to go to the Galt House that evening?

A. None at all.

Q. Why did you knock the Doctor down?

A. Because he had cut me in the arm.

Q. Was there any provocation on your part to induce him to cut you?

A. No. I knew none of the gentlemen. Why he cut me in the arm I am unable to tell. I am confident he never saw me before.

Cross-Examined:—Q. How long had you been in the Galt House then?

A. Three or four minutes—but I had been in the bar-room at first before it began.

Q. Name such of the persons as you saw there then?

A. I saw Mr. Holmes, Mr. Rothwell, and Mr. Halbert in the bar-room. When they came, in they asked me to take some liquor, which I did. A gentleman came and asked to see me, and I went away with him, we staid out some time, talking about boats which he said he had lying at the mouth of the Kentucky river. We were talking outside, when I could hear chairs rattling, and then on trying to go into the bar-room, I got the cut in the arm.

Cross-Examined:—Q. When were you first in the bar-room that evening.

A. Before any fuss began at all there.

Q. Did you not remain to see the fuss?

A. I went out at the time of the fuss.

Q. Were there not many people there, and in the passages?

A. There appeared to be a good many, and some fuss in the passage.

Q. What sort of knife was you cut with?

A. I was cut with a dirk knife.

Q. Can you be positive who cut you?

A. Doctor Wilkinson was the man that cut me, and I knocked him down for it.

Q. Had you given him by word or gesture, no cause for doing it?

A. I had not.

Q. Did you not go there to have a fight?

A. No. I went there accidentally—it was on my way home. I fought on my own hook.

Q. You shot at Murdaugh on your own hook?

A. At the head of the stairs, when he hallooed out for his pistol, I took the advantage to get out mine, and I fired it at him.

Q. When the Doctor was coming out of the door was he not cut and bruised and disabled?

A. I could not see by him, whether he was or not.

Q. Did you tell all this at the Examining Court?

A. I stated the same there as here.

Q. What coloured handle had the knife which the Doctor cut you with?

A. I think it was a white handled knife.

Q. Did you fire before you were stabbed?

A. No, I was stabbed first.

Q. And you had your pistol prepared with two bullets?

A. No; there were 2 bullets; but there was 1 bullet cut in 3 pieces. It had been two or three days loaded.

Q. Well, you had other weapons?

A. I had a Bowie knife.

Q. Was the pistol a rifled barreled pistol?

A. Yes.

Q. How came you to arm yourself thus?

A. I usually carry a Bowie knife and pistol about me since I belonged to the City Guard last summer.

Q. Of course you used your Bowie knife with effect that evening?

A. I did not use it on that occasion.

Q. You certainly displayed it?

A. The button on the scabbard came off, and it slipped through my pantaloons.

Q. Was there not blood on it?

A. There could be no blood on it, but it had a red scabbard which may have been mistaken.

Q. Did you not wipe blood off with your handkerchief?

A. I am confident I did not, for there could be none on it.

Q. Do you say you made no exhibition of it?

A. A gentleman at Zanone's Coffee-House asked me to show him a Bowie knife, and I showed him mine—that is the only exhibition could be talked of.

Q. Did you hear of the affair at Redding's?

A. Not till I went to the Galt House. I did not even hear of it till the Galt House affair commenced. I did not hear of it before I went into the bar-room.

MR. PEARSON RE-CALLED.

Q. (For Defence.) What is Mr. Jackson's general character?

A. I have known Mr. Jackson as a carpenter for many years. He is in the habit of making boxes and cases for the dry-goods merchants. I have formed a favorable opinion of him, and I know that is the opinion of several other merchants. What his private associates may be I do not know.

Q. Have you ever heard of his veracity being called in question?

A. I have not?

Q. (For Prosecution.) Have you heard his character spoken of?

A. I don't know that I have, except as to his capacity as a good workman.

Q. (For Defence.) From what you know of him, would you credit him upon oath?

A. I could—I believe I could have confidence in his word.

Q. What do you know of Mr. Oliver?

A. I have no acquaintance with Mr. Oliver, and have not heard his character spoken of.

MR. MILLER RE-CALLED.

Q. (For Defence.) State what you know of Mr. Jackson's character.

A. I am very little acquainted with Mr. Jackson. As far as I know, I have considered him an industrious mechanic. I really have been favorably impressed with his general character, and am a good deal surprised to hear it doubted.

Q. (For Prosecution.) How has your opinion been formed?

A. Upon appearances.

MR. JAMES N'DONALD CALLED.

Q. What is Mr. Jackson's general character?

A. I have known Mr. Jackson for a few years—that is I know him when I see him. So far as I know he is sober. I never heard his veracity questioned. I have merely known Mr. Jackson as I know other men passing to and fro.

Q. (For Prosecution.) Do you know much about Mr. Jackson?

A. I know very little about him.

Q. (For defence.) If he had been a man of loose habits would you not have heard it?

A. I should think so.

Q. Do you know Mr. Oliver?

A. I have known him for ten or twelve years, but I know very little about him. I never heard any thing against his veracity that I can think of.

Q. Do you not know him to be a door keeper at the theatre?

A. I seldom go to the theatre. I do not recollect ever seeing him there as a door keeper.

MR. ALFRED HARRIS RE-CALLED.

Q. State what you know of Mr. Jackson's general character.

A. I am acquainted with Mr. Jackson. I cannot say a great deal about his general character. As far as concerned with me, it has been fair.

Q. How is he spoken of by his neighbors?

A. I have heard him spoken of in this way—that he is fond of conversation and as a person that says more than he ought.

Q. Would you credit him on his oath?

A. I cannot say that I would not. I know very little about him.

(It was understood that the evidence on both sides here closed.)

It was then half past eleven, and the court decided that a recess till after dinner should be taken, and upon the re-sitting of the court the arguments should commence in the order prescribed.

By one o'clock the court-house became crowded to excess, not less than a thousand well dressed and respectable persons being present. The gallery upon which the bench is situated was appropriated to ladies. There were, probably, from one to two hundred ladies present, of whom three fourths were distinguished for great beauty. Judge Bridges having arrived at the appointed hour, Judge Rowan suggested to the Court the desire of many citizens, that the hearing of the arguments might be adjourned to the adjacent church; to which, if the court approved, the jury, no doubt would consent, for the accommodation of the public and the ladies in particular. The Court conceived that no judicial proceeding would be proper any where, under present circumstances, but in the ordinary tribunal of the country, and although the mere delivery of arguments from the counsel was not necessarily in the nature of a

judicial act, yet some proceeding, or recalling of evidence, might be requisite, which would embarrass such a departure from the usual course. To accommodate the ladies, the Court would order the gallery to be appropriated exclusively to their use. The gallery was accordingly cleared of gentlemen, and the ladies provided with seats. The jurors being called over and order commanded, the prosecuting Attorney, Mr. Bullock, opened the argument in the following address:—

GENTLEMEN OF THE JURY—You have gratified me by the attention you have bestowed upon the examination of evidence in this cause; and I feel assured from that, of your honest intention to do your duty in weighing that evidence and deciding upon it as becomes you. Yours is, indeed, no ordinary duty, and I know you are aware of your obligation. I would not have your feelings excited on the one hand or the other of this prosecution; but I would have you impressed with a proper conviction of the facts to enable you to do your duty between the commonwealth and the accused.

I, also, occupy a public situation here, to which the laws have assigned duties of no ordinary trust. I am required not alone to see that the laws be vindicated, but that the innocent should be separated from the guilty and protected from persecution.

If guilt exist, it is my duty to present the evidence of it to you, together with the law applicable to the case; and if that evidence is so satisfactory as to bring conviction to your minds, you are required to decide according to the law and the facts.

You, gentlemen, have taken an oath that you have no interest, feeling, or prejudice, one way or another; and it behooves you, as honest and impartial jurors, to weigh well not only the evidence but the arguments for the commonwealth as well as for the accused, and according to your solemn oath a true verdict give.

In the opening of this argument I shall not enter into the depths of the case. I shall merely lay before you the law in relation to the alleged offence, that you may be enabled to judge of its violation from the evidence of the facts.

There are three individuals arraigned before you for separate and distinct offences. Edward C. Wilkinson is now upon trial for the murder of John Rothwell; and John Murdaugh and Benjamin R. Wilkinson for aiding, assisting and abetting. John Murdaugh is upon trial on another indictment for the murder of John Meeks; and the other two for aiding, assisting and abetting. You are to try both cases—for the evidence is applicable to both, and your verdict will apply to both. So far as your finding and verdict reach, it is immaterial whether you find one guilty of the killing and the others as accomplices, or the three together guilty, because if you believe but one did the act, and that the others

were accomplices, the guilt is the same in all, and it is immaterial which struck the blow that produced the death. It is also necessary to mention, that if you believe one or two out of the three guilty, and the other innocent, you have the right to find your verdict against the guilty and to acquit the innocent.

I make these observations that your attention may not be drawn from the main point—the vindication of the law and the application of the evidence.

It has been proved to you that two men were killed in the city of Louisville; that blows were inflicted on them with deadly weapons; and that they died from the effects of those wounds. The laws of Kentucky afford protection to all her citizens. Two of these citizens have been slain, and your first enquiry is, who committed this crime against our laws.— Three gentlemen, now before you, are charged with this murder. I need not lose time in endeavoring to prove to you that one or more of these gentlemen inflicted the blows which caused these deaths, because from the evidence you are bound to believe that the Judge or Mr. Murdaugh inflicted them and that each participated in the act of the other. The question is, have they been guilty of any crime which the laws of the land will reach; and if they have, what that crime is designated. It is in the eye of the law homicide; and homicide is either justifiable or punishable by law. The killing constitutes the homicide, and that has been proved; but it is for you to say whether that killing has been murder, manslaughter, or justifiable homicide. Although these gentlemen, are indicted for the major offence, murder, you may, if the evidence justify you, find them guilty of the minor offence, manslaughter; or, even if the excusable homicide is proven, you may acquit them. But as they are charged with the commission of the crime of murder, it is necessary you should hear the law read as it exists in cases of homicide. In defining the law I shall endeavor not to set down aught in malice, neither shall I on the other hand aught extenuate.

Murder is one of the highest crimes known to our laws. It is defined by Sir William Blackstone, page 142: "When a person of sound memory and discretion, unlawfully killeth any reasonable creature in being, and under the King's peace (or as in this case in the peace of the Commonwealth of Kentucky) with malice aforethought, either express or implied."

That a killing has been committed it would now be a waste of your time to prove; you have it already established by the evidence, and it is not denied; the only question you have to decide, in addition to that fact, is, whether this killing was or was not the result of malice. Malice aforethought does not only mean "a spirit of hatred or malevolence to the deceased in particular, such as arises from former grudge or previous quarrels, and which is evidenced

by lying in wait, &c.;" this is express malice; but it is not the only kind of malice. "For the law meaneth by the term malice that the fact hath been attended with such circumstances as are the ordinary symptoms of a wicked, depraved and malignant spirit, and which carry in them plain indications of a heart regardless of social duty and fatally bent upon mischief."—See Foster, page 256, and Blackstone, page 199. The constitution makes you, gentlemen of the jury, the arbiters of life and death. You are to make a solemn enquiry into the causes which deprive by violence your country of the life and services of one or more of its citizens.

In all cases of death by violence the law implies that it is done by malice until the contrary is proved. Such is the shield thrown by the law round human life that it raises a presumption of malice in the consummation of violence. Should I succeed in satisfying you that a killing has been done where malice is proved by the evidence, of that amount known to the law, it is murder; and unless you can find in the circumstances proved to you that there are extenuating circumstances, you cannot compromise the law by doing less than the duty which it demands of you. Sir Michael Foster, page 255, lays down the rule: "That in every charge of murder, the fact of killing being first proved, all the circumstances of accident, necessity, or infirmity, are to be satisfactorily proved by the prisoner; unless they arise out of the evidence produced against him, for the law presumeth the fact to have been founded in malice, until the contrary appears." The law does not require in proof of malice that there should have been a previous grudge, for it may arise at the moment of inflicting the deadly violence, or be inflicted upon persons previous to the act, unknown to the slayer. On this occasion it is not necessary to prove that Judge Wilkinson or Mr. Murdaugh had ever known their unfortunate victims; if their act springs from hearts regardless of social duty and fatally bent upon mischief—and this is manifested in different ways, from the manner of the assault, the weapon used, and the probability that death would result from the blow. For in all cases of homicide upon provocation, if it may be reasonably collected from the weapon used, or from any other circumstances, that the party intended to kill, or to do some great bodily harm, such homicide is murder. And right it should be. For he who carries a weapon calculated to take life, shows that he broods over blood, and that he thinks with levity of taking the life of a fellow being. Nature itself revolts at the idea of death, and a thrill of horror runs through every nerve at the thought of imbruing our hand in the life's blood of a fellow being; and he, therefore, who, with the impending glittering blade over an unarmed man, can strike with a deliberate intent to kill, is a monster—dead to the social

ties, dead to the sympathies of our nature, and no longer worthy of human regard or to the protection of human laws. You see then, gentlemen, that it is not essential to the crime of murder that there should have been any previous grudge or quarrel, or even a previous acquaintance. But if you believe that the killing was done with a heart fatally bent upon mischief and fraught with malice, and you must judge of this from the manner of the blow, the nature of the weapon and all the other circumstances of the case—then is it murder—and you must so find. Let your feelings be how they may—yea, even though you wrote your verdict in tears.

As I have said before, if you believe these gentlemen have been guilty of this crime, you are to consider whether any extenuating circumstances are in proof, and in mercy you are bound to regard those extenuating circumstances; but if you believe those circumstances are not of that weight which the law says is necessary to justify the taking of human life, you are not to be swayed from your duty by your feelings.

Gentlemen, I am sorry to say that there has been thrown into this case a quantity of trash and chaff not recognized by the laws of evidence; and this has been done, no doubt, with a view of preventing you from readily discovering in this trashy chaff, the grains of wheat, the facts upon which your decision must be made. I did not interrupt this course, because the counsel for the defence had the right to introduce their own testimony in the method which suited them, and I could not tell until the testimony for the accused was closed whether those declarations and opinions of others would be connected with other facts and circumstances so as to make them relevant and proper. Many of the witnesses have detailed to you what they thought—what others said—if not what others thought. This surely is not evidence; yet I found that I could not arrest such an improper course. All I can now do is to tell you that you have no right to give the least weight to that kind of evidence; for you are sworn to decide this cause not by the vague conjectures and opinions of others, nor even by your own, but by the lights of truth and sober reason.

The counsel on the opposite side will endeavor to show you that there was a mob, or a concert of a mob, got up by Redding and his friends to assault these gentlemen at the Galt House. You will have the opinions of counsel on this point; but you must keep in mind that opinions are not evidence. Ascertain the facts from the proof, and consult your own consciences to make up your judgment. Recollect that you are here to try the law and the facts; and that you are not to mingle up with them that which is not legitimate testimony. I can compare the defence in this case to nothing but a boiling cauldron, into which a vast quantity of angry

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feelings and fermenting passions have been thrown; and it must be your business, gentlemen, to filter the truth from the dregs and scum with which it is intermixed. You are to ascertain whether, when the affray commenced and the fatal blows were given, there was danger to these gentlemen of their own lives. That there was not, seems to me clearly established. The witnesses tell you, one and all, that there were strange faces in the bar-room of the Galt House. Well! what of that? Is it an uncommon circumstance that there should be strange faces in the bar-room of a public hotel, the most extensive and most frequented in the western country? Almost on all occasions, at every moment of the day, there are strange faces to be met with there. That bar-room is the resort of every stranger attracted by the celebrity of the house and having business to transact in Louisville or its vicinity. If any thing can be based upon this circumstance, I should be glad to know what supposition the gentlemen for the defence can raise upon it. When Redding was in that bar-room getting the names of these Mississippi gentlemen, what demonstration was there of a contemplated assault by others?—None! There is nothing in the whole case to warrant the assertion except the mere conjecture of some few individuals. Not a man produced here to testify the facts, not a man who heard and saw the whole transaction, has sworn that Rothwell, Holmes, or Halbert, then said a word to Judge Wilkinson. How then could he infer that they were to be engaged in any concert? When Judge Wilkinson went off after what passed between Redding and him, was he not suffered to go his way in peace? What reason could he have had to consider there was an individual except Redding who could have a particle of ill-will against him? Well, he left the bar-room, was met at the door into the passage by Mr. Everett, and retired to his own room. In doing so he passed unmolested, unobstructed, and on reaching his apartment had time to detail to his companions, Mr. Murdaugh and Dr. Wilkinson, all that had occurred between him and Redding in the bar-room. Without waiting for their comments or reply, he demands pistols from Mr. Everett. What did he want with pistols if not for attack? If he wanted them for defence, why did he not wait for them? No, gentlemen, Judge Wilkinson and his companions did not need pistols for their defence, or they would not have come down armed with their knives alone. They could not restrain themselves, so eager were they for the attack. They came down, and of what passed you are to be the judges.

I have satisfied you that there had been no concert—no scheme to assault these gentlemen. There is no proof of it, and it can only be inferred from con-

jecture: but are you to conjecture? You are forbidden by the law.

When Judge Wilkinson returned to the bar-room he had no right to suppose that he would be even addressed, much less assaulted, by any other person than Redding. In the absence of all proof that there was any one desiring to attack him, who is there that even says he (Judge Wilkinson) was told that Redding's friends had any design of that kind? Did any witness for the defence prodigal of long stories of his thinking, tell him there was such a design? Not one. There is nothing in the whole case to justify the supposition. That some may have been there from curiosity is possible; but certainly none from design to assault.

Well, after coming down Judge Wilkinson entered the bar-room accompanied by Mr. Murdaugh and Dr. Wilkinson. The Judge, after pacing the room, stood firmly and fixed his eye on Redding, while Murdaugh approached the latter, and, according to some of the witnesses, addressed him insultingly, at the moment throwing his knife open in a menacing manner. What immediately followed is known to you from the evidence. All have seen the subsequent transactions differently, yet they occurred in one way only. It is necessary to remark these conflicting accounts in order to arrive at the facts; and it will also be necessary for you to select from the mass of evidence the testimony of such men as you think have given their evidence without intent to pervert the truth: those who witnessed the transaction with the greatest quantity of self-possession and the clearest observation. Not such men as those who started and got away to the outside of the windows, though they may be honest, yet evidently having acted under alarm and trepidation sufficient to render them incapable of seeing calmly and dispassionately what occurred. It is natural to conclude that the excitement and alarm caused the different views taken of the transaction by different individuals. Some of these individuals, who remained and retained their self-command, I know to be men who could look on and take in what occurred without much danger of misconception. I know Trabue and Montgomery to be such men, and I feel satisfied that Mr. Robert Pope, though not as well known to me, is of this number, if I may form an opinion from his manner of giving his testimony. I admit that most men are incapable of viewing coolly and deliberately the shedding of human blood; but that some men are more self-possessed under such circumstances than others will not be denied. It is surely more consonant to human sense to predicate our conviction upon the testimony of those who evince the most coolness and self-possession when their veracity is questioned. An additional reason why I attach great weight to Mr. Trabue's

testimony is, that he expected the affray and was prepared to watch narrowly what was about to take place. He tells you that he had his eye fixed on Judge Wilkinson and Mr. Redding, at the moment his ear caught the words passed from a third person. He was watching these two that he might observe which would commence the expected conflict. Mr. Trabue's is the most consistent and rational account of what then occurred, and I adopt his view of it in preference to others, because I want a clear view only of the facts. Gentlemen, I seek not these men's conviction if they are innocent. It would be at variance with the trust reposed in me as the organ of government placed between the commonwealth and the accused. But if your verdict must be against them, though you write it in tears, justice demands that it should be rendered faithfully. What are the rational conclusions you ought to come to? I will tell you my conviction on that point, grounded on the evidence of Trabue and Montgomery and corroborated by others. When Judge Wilkinson had arrived in his bed-room; had told his brother and Mr. Murdaugh what had occurred between himself and Redding; and Mr. Everett had left them—these gentlemen deliberately agreed to come down and see the contest out. They were Mississippians—they had shown their knives, at least two of them, and a third, a large bowie knife, had been added—and they descended for the work of death. They knew of no hostile foes below but Redding, for they could not know of any other; there was no reason to believe they could meet with any others in the bar-room, over whom they could crow and triumph, but Redding; and they did crow and triumph over him; for it is in proof that he truckle under, when Murdaugh said, "I understand sir, you say, or it is reported, that I assaulted you in your own house with a bowie knife. If you say so, you are a damned liar." Redding did not stand up to this like a man. He backed out by saying, "I do not say it was you, but one of the three did it." Is it like what a man backed by a mob would say? Is this like what a man surrounded by a company of friends would say? Gentlemen, it is impossible to believe it.

It is immaterial what part Redding took in the affray. The question is, what excuse these gentlemen had for taking the life of a fellow creature. It is my duty to show you what the law says in reference to killing and excuses for killing. I shall come to that presently. Murdaugh had his knife in his hand before any attempt at assault had been made on him. When Meeks approached him, what would any man expect but a blow? What kind of blow did Murdaugh receive from Meeks? Why, nothing but a blow of a short cow-hide over the head; and, unfortunately for Murdaugh, the law

will not excuse him for resenting a blow that could not have threatened his life, by taking a life for that blow. I promised to show you what the law says on this point: "He that would excuse himself upon the foot of self-defence must show that before a mortal stroke was given he had declined farther combat and had retreated as far as he could with safety, and also that he killed his adversary through mere necessity and to avoid immediate death or great bodily harm."—Foster, page 277. This is the law; and it is not now necessary for me to go farther than to show you it is founded upon natural and immutable principles of justice. "A, being assaulted by B, returneth the blow, and a fight ensueth. A before a mortal wound given, declineth any farther conflict, and retreateth as far as he can with safety; and then, in his own defence killeth B; this is excusable self-defence, though A had given several blows, NOT MORTAL, before his retreat. But if the MORTAL STROKE had been first given it would have been manslaughter."—Foster, page 277. He must show that at the moment of the mortal blow, he gave it from necessity, to avoid his own death or great bodily harm. Here is another case: "The prisoner was indicted for the murder of his brother; and the case upon evidence appeared to be, that the prisoner on the night the fact was committed came home drunk. His father ordered him to go to bed, which he refused to do, whereupon a scuffle ensued between the father and son. The deceased, who was then in bed, hearing the disturbance, got up and fell upon the prisoner, threw him down, and beat him upon the ground; and there kept him down, so that he could not escape, nor avoid the blows; and as they were so striving the prisoner gave the deceased a wound, with a penknife, of which he died. This, upon a special verdict, was, at a conference of all the Judges of England, ruled MANSLAUGHTER—for there did not appear to be any inevitable necessity so as to excuse the killing in this manner."—Foster, page 278. In all cases where a blow is given to produce death, unless to avoid death or great bodily harm, it is either murder or manslaughter.

Now, unless there was absolute necessity that Murdaugh, to avoid death or great bodily harm from the blow inflicted by Meeks, gave that deadly blow which killed Meeks, after he had changed the knife from his right to his left hand; and unless you believe that he could not himself escape death but by killing Meeks, you must believe him guilty of manslaughter at least, according to the law. The law discountenances the idea that because a man is a mechanic you are not in an unavoidable scuffle to resort to fisty cuffs, on account of any presumed superiority of station; but when your adversary assaults in that way, that you may draw a deadly weapon and kill your opponent; because the law cannot

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excuse such unequal odds. What is there in this case to justify Murdaugh? Montgomery, whose breast was sprinkled with the spouting blood of Meeks, though at several feet distance, tells you there was no blow when Meeks was stabbed. If Murdaugh was struck with a stick or cane afterwards, he is not to say that because of that subsequent blow or blows he is justified in having previously inflicted death. As to what transpired when Rothwell was stabbed; you will recollect that Rothwell had three wounds. We are able to account for two of them by direct evidence; for the other we account by circumstantial evidence. Two witnesses who saw the Judge's bowie knife enter him, say the first stab was given in the right hand corner of the bar-room as you face the fire place. These two are Trabue and General Chambers. They say that when Rothwell was in the north-west corner, Judge Wilkinson rushed up and plunged his murderous knife into his back, towards the left side, at a time too when Rothwell was not offending him, and could not offend him, because his back was turned. A second time Judge Wilkinson stabbed Rothwell in nearly the same place, when Rothwell was in another part of the room. So that it is at least certain that two of the wounds inflicted upon Rothwell were inflicted by Judge Wilkinson. Let them say what they will about Meeks having struck Murdaugh, and that at the time any one else was offending Judge Wilkinson's brother, I say, and I say it here in the presence of His Honor, who will set me right if I am in error, that a man has no right to take a life in defence of his brother because merely he is his brother, though a right might exist if in defence of his child or wife. There is no conclusive testimony that Rothwell was assaulting Dr. Wilkinson when stabbed by Judge Wilkinson; on the contrary, it is proved that Rothwell was endeavoring to rescue Dr. Wilkinson from Holmes. Now, as to the law of self-defence; we find it in page 273, under the head of "justifiable self-defence," &c. When a man comes with evident intent to commit felony, which he must be engaged in at the time.

The other case is when in self-defence an adversary is killed. But there is no law to justify Judge Wilkinson in doing what he did on the plea of saving his brother.

In the slaying of Meeks by Murdaugh I will ask, was there that absolute necessity for the taking of life, because he was struck over the head with a whip, which is recognized by the law? They cannot produce any law of England to show it, and I defy them to show me any Statute of Kentucky that warrants it.

In order to justify you, gentlemen of the jury, in finding the three persons indicted, guilty of the of-

fences charged, though only one or two committed the act, it must appear that there was an aiding or abetting—a concert of action. What did these three gentlemen come down to the bar-room for, if not to countenance each other, and aid each other in striking terror into those with whom they meditated a conflict? Why did they arm themselves with their knives and enter together, if they did not mean to stand by each other? It was to show that they were united, unanimous, and mutually willing to aid and abet each other in their design.

I did not intend to occupy so much of your time—depending upon a further development of this argument by Mr. Hardin, to show how the prosecution will reconcile the events detailed in evidence. You will hear from the gentlemen opposite their view of the case for the defence. You will weigh the facts with the arguments on both sides, and I trust—I know—you will hold the scales of justice impartially. It is useless to talk of Statutes for suppressing the use of Bowie knives or concealed weapons, unless jurors execute the laws fairly and fearlessly. If, in this instance, there has been a violation of that security for life guaranteed by our Constitution, execute your duties, gentlemen, as law-abiding citizens. That you will do so conscientiously, fearlessly, and becomingly, I have every confidence; and with this conviction, I confide the case to your hands.

Colonel Robertson then rose and addressed the court and jury as follows:—

It has fallen to my lot, Gentlemen of the Jury, to follow the Attorney for the Commonwealth, and to open the defence, on the part of the accused. In doing this, I take pleasure in according to the gentleman my profound acknowledgments, for the just, fair and liberal ground on which he has placed the law that must control, as well the prosecution, as the defence in this case, whilst at the same time, I have to express my regret, that he has permitted himself to draw deductions from the evidence, which I think cannot be maintained. I do not know that I shall be able to present this case to you, in the aspect which properly belongs to it, nor do I know that my feeble state of health, will allow me to proceed far with the argument which I propose to offer; should I find myself unable to go on with the discussion, I will resume my seat, and leave the case in the hands of the distinguished gentlemen who are associated with me in the defence, and who, under any circumstances, would be able to do far more justice to the accused than would fall within the range of my powers. For three months past, I have been prevented by a local disease, from engaging in argument at the bar, and this is the first occasion, during that time, in which I have attempted to engage in forensic strife.

Gentlemen, I feel very sensibly, the weight of responsibility which rests upon me, not because there is any thing alarming in the case itself, but because the charge is a solemn one, presented in the most solemn form, and which, if true, might produce the most solemn consequences. The case, too, has been made to wear the most aggravated form; not only by an abuse of public feeling, for a time, about the city of Louisville, but by the indiscretion of the public prints; two of which in the city, not only departed from invariable usage upon such occasions, but unfortunately for the accused, these papers permitted themselves to fall into the grossest errors, operating against the truth of the case, and against the accused, and which, to this day, have not been corrected, or in any way, atoned for; other papers at a distance copied from them, and thus has there been a most extensive circulation of facts, which never existed, to the great injury of the accused. Under these circumstances, though the public mind has, in a great degree, corrected itself, by the lights which were thrown open, before the examining Court; yet we deemed it better to bring the cause to the consideration of twelve men, not only equal in all other respects to a jury to be selected in Louisville; but who should be entirely untainted by prejudice, and would be certain to render a verdict according to law, and to evidence. Such a jury, gentlemen, we think we have found in the county of Mercer, such a jury now sits before us, and to you is committed the fate of our clients.

If I were left to the exercise of my own judgment, I would willingly submit this cause to your determination, without an argument; but gentlemen, we have thought, upon consultation, that too much was at stake, and that duty requires at our hands a discussion, such as may not only convince your minds, but which shall correct the errors that may have taken root in the public mind abroad and at home; for we wish, not only to acquit the accused, but that the acquittal shall restore that high character which belonged to them before this unfortunate occurrence, and which, as we conceive, has been, in no degree, darkened by any part of their conduct. It is true that they regret, most sincerely, that they were placed in a condition which required them to take the lives of their fellow men, or submit to their own eternal disgrace, and perhaps the loss of their own lives; but having been placed in that situation, but one course was left to them, and they did not hesitate in taking that course.

Gentlemen of the Jury, I feel the most unqualified confidence in our ability to show you in the course of this discussion, one of the clearest cases of self-defence that was ever presented to a court and jury to decide, and if, in doing so, I shall be compelled to speak harshly of some of the witnesses on the part

of the Commonwealth, it must be remembered that these witnesses have placed themselves in a situation which makes it my duty to animadvert freely upon what they have said, and to disappoint them in that conviction which their very manner shows they are so eager to procure.

Our clients stand before you, gentlemen, charged with no mean, ignoble crime; they stand before you in the highest and noblest attitude in which man can exhibit himself before his fellow man, they stand before you, *upon proof*, that they invaded not the rights of others, whilst, at the same time, understanding their own rights, they defended *them* against the assault of their assailants, even unto bloodshed and death; as, by law, they had a right to do. In presenting to you the view which I entertain of the case now before you, I shall not go into any laborious, detailed analysis of the testimony.— Even if my state of health would allow me to do this, I should nevertheless decline it, because my honorable associates in the defence will do ample justice to that and every other branch of the subject. My object will be to present the case to you, in somewhat of a general aspect, for after all, it will be found that the great principles involved are but few, and these few are of well settled law. I know that the able counsel, on the part of the prosecution, will endeavor to perplex you with almost countless cases from high authorities; but when these cases are well examined, it will be found that they are perverted and misapplied; and, in no degree, do they affect the right of self-defence, possessed by every individual in this country; and upon which we shall rest this cause.

In the humble view which I shall endeavor to present to you of this case, I shall call your attention to the authorities which seem to me to govern and control it, to state the evidence in a fair and candid manner; and then by a just application of the law to the testimony, endeavor to conduct you to rational and just conclusions.

I have said that we shall rest this cause upon the great principles of self-defence; and I shall endeavor to confine myself to this ground as far as I can, or as far as may be consistent with a general and somewhat systematic view of the law and the evidence; yet, in doing this, I shall unavoidably be led into some necessary views of the law of homicide; noticing the degrees into which it has been divided, and explaining, wherever explanations may be required. In the case before you, gentlemen of the jury, the self-defence on which I shall rely, was not only against the attack of individuals, but these individuals, as I shall shew by the evidence, had previously agreed to associate themselves together as a *band of lawless conspirators* for the purpose of meeting at the Galt House in the course of the evening, and

there to take revenge of the accused, by inflicting upon them the ignominious punishment of a *public cow-hiding*; or, in the event of resistance, then, to use the weapons of death, with which the testimony shows they were provided. As I feel that I have no occasion to mis-state the evidence, I shall not only endeavor to present it fairly, but should I not do so, I will be obliged to the counsel for the prosecution to set me right, as soon as they may think me wrong upon this point.

Intending to place the defence upon grounds of self-defence, and that self-defence being against the attack of a band of conspirators against the honor and perhaps the lives of the accused; I will, for my own convenience, and for the benefit of the counsel who may reply to me, state the authorities on which I shall mainly rely. They are few, but I think they are strong.

"If two or more come together to do an unlawful act against the King's peace, of which the probable consequence might be bloodshed, as to *beat a man*, to *commit a riot*, or to rob a park: and one of them kills a man; it is murder in them all, because of the unlawful act, the *malitia praecogitata*, or evil intended beforehand." 4th Blackstone, page 201 Chitty's edition.

"But if several attack a person at once with deadly weapons, as may be supposed to have happened in Ford's case, though they wait till he be upon his guard; yet it seems, (there being no compact to fight) that he would be justifiable in killing any of the assailants in his own defence; because so unequal an attack resembles more a desire of assassination than of combat." East's pleas of the Crown, vol. 1, page 276.

"For no man is required by law to remain defenceless and suffer another to beat him as long as he pleases without resistance, although it be evident that the other did not aim at his life, but he may lawfully exert so much force as is necessary to compel him to desist." Same book, page 286.

But who is to judge of the degree of force necessary to be applied to make the man who attacks desist? I answer, in the very nature of things, he who is attacked must be the judge, and so the law intended, and so it has been ruled, as may be seen from the following authority:—"Yet still," (says East, speaking upon this very point) "if the party killing, had reasonable grounds for believing that the person slain had a felonious design against him, and under that supposition, kill him; though it should afterwards appear that there was no such design; it will be only man-slaughter, or even misadventure, according to the degree of caution used, and the probable ground of such belief." Same book, page 173.

"For," (says the same author, speaking of unlaw-

ful combinations) "if the act or design be unlawful or premeditated, and death happen from any thing done in the prosecution of it, it is clearly murder in all who took part in the same transaction."—Same book, page 259.

"He who voluntarily, knowingly and unlawfully, intends hurt to the person of another, (as Redding and his party intended to the accused,) though he intend not death, yet if death ensue, is guilty of murder, or man-slaughter, according to circumstances. As if A. intending to beat B., happen to kill him, if done from pre-conceived malice, or in cool blood upon revenge, it will be no alleviation that he did not intend all the mischief that followed." Same book, page 266.

The learned author, in continuation of his illustrations, by rules laid down, says,

"The above rules govern all the cases where divers persons resolve generally to resist all opposers in the commission of any breach of the peace, and to execute it with violence, or in such a manner as naturally tends to raise tumults and affrays: as by a violent disseisin, with great numbers, or to beat a man, or rob a park, or standing in opposition to the sheriff's posse; for they must at their peril abide the merit of their actions who wilfully engage in such bold disturbances of the public peace. In such cases the law adopts the presumption of fact that they came with intent to oppose all who should hinder them in their design." Same book, page 257.

As Judge Wilkinson's case differs somewhat from the others, and as some authorities may be applicable to his case, which may not apply to the others, I will at this time introduce the following general principle, immediately following the last quotation, and in the same book.

"And in all such instances, whether the breach of the peace, were sudden or premeditated, not only officers, but even private persons may interfere to suppress the riot, giving notice of such their intention; and much more may they defend themselves: and if in so doing they kill any of the rioters, if they could not otherwise accomplish their purpose, it will be justifiable; and the killing any person so interfering by any of the rioters would be murder in all who took part in the fact or abetted thereto." Same book, page 257.

As Judge Wilkinson's case will turn somewhat upon the right of third persons to interfere and prevent a felony, such, for instance, as the killing of another, I will continue my authorities, that I may be saved trouble hereafter. Lord Hale, in speaking upon this right of third persons to interfere, for the purpose of preventing a felony, puts this case, viz:

"If A. B. and C. be walking in company together, and C. assault B., who flies, and is in danger of be-

"ing killed from C's pursuit, unless present help be afforded; and A. thereupon kill C., in defence of the life of B.; it seems that in this case of such inevitable danger of the life of B., the killing of C. by A. is in the nature of self-defence, but it must plainly appear by the circumstances of the case as the manner of assault, the weapons with which it was made, &c., that B's life was in imminent danger." Lord Hale, page 484.

I will continue my authorities—Blackstone, speaking of crimes committed by violence, says, "For the one uniform principle that runs through our own, and all other laws, seems to be this, that where a crime, in itself capital, is endeavored to be committed by force, it is lawful to repel that force, by the death of the party attempting." 4th Blackstone, Chitty's edition, page 134.

"Homicide in self defence, or, *se defendendo*, upon a sudden affray, is also excusable, rather than justifiable, by the English law. This species of self-defence, must be distinguished from that just now mentioned, as calculated to hinder the perpetration of a capital crime, which is not only a matter of excuse, but of justification. But the self-defence of which we are now speaking, is that whereby a man may protect himself from an assault or the like, in the course of a sudden broil, or quarrel, by killing him who assaults him; and this is what the law expresses (by the word *chance-medley*, or as some rather choose to write it) *chaud-medley*, the former of which in its etymology signifies a *casual* affray; the latter an affray in the *heat* of blood or passion; both of them of pretty much the same import." Blackstone, page 135, Chitty's edition.

"Homicide, or the killing of any human creature, is of three kinds, *justifiable*, *excusable* and *felonious*. The first has no share of guilt at all; the second, very little; but the third is the highest crime against the law of nature, that man is capable of committing." 4th vol. Blackstone, page 178, Chitty's edition.

Murder is described or defined by Sir Edward Coke to be "when a person of sound memory and discretion, unlawfully killeth any reasonable creature in being, and under the king's peace, with malice aforethought, either express or implied." 4th Blackstone, page 195, Chitty's edition.

The statute of Kentucky which prescribes the punishment of persons convicted of man-slaughter, contains this proviso: "Provided always, That nothing in this act contained, shall extend to any person who shall kill another in *self-defence*, nor extend to any other who shall kill another by chance, in keeping or preserving the peace, so as the said man-slaughter, be not committed willingly, and under color of keeping the peace." Morehead & Brown's Digest, page 1294.

Gentlemen of the jury, I believe you now have all the authorities to which I shall have occasion to advert in the course of the remarks I shall address to you, and I have given them to you drawn together in one view, under the hope that you will bear them in mind, and know how to apply them to every branch of the case, as such branch may be presented in the argument.

Let us now see what is the testimony before you; and by a short process of analysis, you will be enabled to make such an application of the law to the testimony as cannot fail to conduct you to just and rational conclusions. I repeat, gentlemen, that I do not propose to go into any strict and rigid examination of the testimony, the labor will be more than my feeble condition will bear; I shall take little more than a passing view of its general character, for I verily believe that you already understand the whole case, as well as you will be able to do, after discussion; at least so far as my argument will go.

I do not intend to trouble you with any argument upon the scenes which have been described as having happened at Redding's own house, in the afternoon of the day on which this tragedy was played at the Galt House, because they are separate and distinct matters; occurring at different times, at different places, and with different men. Rothwell and Meeks, for the killing of whom the accused are now arraigned before you, were neither of them at Redding's when the difficulty about the coat took place, and what occurred there cannot have any legal connexion with the Galt House affair. We might, indeed, have prevented the evidence relating to what happened at Redding's from going to your consideration, and with that view might have submitted a successful motion to the Court; but we had other objects in view, we wished nothing to be concealed which might affect the characters of our clients, and we wished moreover, to show the malice which animated and moved the lawless band of conspirators with which the accused afterwards had to contend. So far as it may be necessary to shew this violent and malicious feeling on the part of Redding and his company, I may probably have occasion to refer to portions of the testimony showing the things which happened at Redding's house, because the danger which surrounded the accused at the Galt House, can only be known by first showing in what state of feeling this lawless band entered the house in which the tragical scenes were afterwards exhibited.

Gentlemen of the Jury, whether you shall view this case as an individual conflict between the slayers and the slain; whether you view it as an affray of the moment, without previous concert, or whether you view it as a previously and deliberately formed conspiracy, maliciously entered into by Redding and his party, for the unlawful purpose of beat-

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This r from mu taught u principle with us, importan nature; cannot d ed into to poster not a ca tered int wrongs took red nation a things co soon gai weak; a tice ver this, a p what is pact was affairs of kers, cho be from ty. The ing to th in the ex which b which p these ina ery man habitation all civilis guard's d doubt by that who must on prevent shall not party as which it to believ save him then is b this posi of the at told that the wall could be all this i limitatio

ing and disgracing the accused; they (the accused) stand equally justified or excused: view it as you may, place it in every varied aspect, and it is still a case of self-defence; strictly so, by the most rigid construction of law.

This right of self-defence, is not a right derived from municipal law, it is not a thing that has been taught us, we have not learned it from books; it is a principle of our nature, born with us, and has grown with us, in feeling and in strength. It is the most important right which belongs to man by the law of nature; it is his birth-right, of which human power cannot deprive him, and which man, when he entered into the social compact, reserved to himself and to posterity—municipal law is a *consequence*, and not a *cause*, of the social compact. Before man entered into a state of society, each one judged of the wrongs which he supposed he had sustained, and he took redress in that mode and manner which inclination and strength enabled him to do: this state of things could not long endure, for the strong would soon gain possession of all that might belong to the weak; and thus, all the principles of right and justice were broken down and destroyed. To remedy this, a plan was conceived by individuals of forming what is called the social compact. This social compact was an agreement amongst all, that the general affairs of mankind should be regulated by law-makers, chosen or appointed in such mode as might be from time to time prescribed by supreme authority. The great object in view, at the time of agreeing to this social compact was, to secure individuals in the exercise of certain great and inalienable rights which belong to man as his *birth-right*, and of which posterity could not be deprived. Amongst these inalienable rights will be found the right of every man to defend his *person*, his *property*, and his *habitation*. Hence we find that municipal law, in all civilized countries, is constantly throwing new guards around these rights. You will be told, no doubt by the learned counsel for the prosecution, that when an individual is unlawfully assaulted, he must only apply as much force, *in resistance*, as will prevent the contemplated injury. This authority I shall not deny, but insist that, in this resistance, the party assaulted is the only judge of the *degree* to which it shall be carried, and if he has good reason to believe that nothing but killing his assailant will save him from being wounded, maimed, or killed, then is he authorised to slay his assailant, and in this position I think I am well sustained by some of the authorities already read to you. You will be told that it was the duty of the accused to retreat to the *wall*, as the books call it, before a mortal blow could be lawfully given. Gentlemen of the Jury, all this is true as a general proposition, but it has its limitations and exceptions. If a man is already

against a wall, he can retreat no further; this is one exception; if he is in his own house, and is assaulted with a felonious design, he need not retreat; this is another exception; and if he is so fiercely attacked that the delay in retreating would place him in imminent danger, then he need not retreat; and this is another exception. Whilst, therefore, the general rule may be very good, it is liable to, at least, these three exceptions.

In approaching the testimony in this case, we are struck with the remarkable fact that, every witness on both sides, who speaks upon this point, proves clearly that the first blows were given by Meeks and Rothwell, and that these blows were inflicted by them upon Murdaugh. Strange enough, but perhaps *just* enough; that they who raised the tempest, should be the first victims of its fury. Johnson, (a witness for the Commonwealth,) is the only witness on either side, who does not distinctly state that the first blows were given by Meeks and Rothwell, and Johnson goes no further than to say that he believes mutual blows were given about the same time, by Murdaugh and his assailants: As I shall have occasion to notice the testimony of this witness (Johnson) in the course of my remarks, I will let him alone for the present, and proceed with the evidence somewhat in the order in which it was introduced, beginning with that of Mr. Redding, and before I shall have done with him, I think you will agree with me that, upon this occasion, he is totally without credit as a witness, whatever may be his claims to general good character. One of the rules of evidence, gentlemen, is that a witness must stand indifferent between the parties to entitle him to credit with a jury; another rule is, that he must be consistent in his statement, and another is, that if his testimony shall be falsified in any *material part*, the falsification shall attach to the whole, and destroy the whole; and I propose to show that these rules all rest heavily upon this witness, and that he is not entitled to credit in any thing that had he stated to you. In the first place, what is his position? Why, he tells us himself, that he is under contract to the counsel he has employed, (Mr. Hardin,) to pay him one thousand dollars for his services in this cause, and although the witness does not state it himself, yet this contract must have been made under circumstances which amounted to a declaration on the part of Redding, that he wished the accused capitally punished, if Mr. Hardin could procure it to be done, whether they were guilty, or not, when judged by the principles of law. Now, gentlemen, look at the witness and his situation, and say if you can, that he stands indifferent between the Commonwealth and the accused. If the witness has so far become the avenger of blood, as to give to counsel distinguished for talents, the large fee of one thou-

and dollars, do you not believe that he will, when called on to give testimony in the same case, either say things, or suppress things, which go to stifle truth, and make out a verdict of *guilty* against the accused? None can doubt the truth of this proposition, and I will not impeach your understandings, gentlemen, by supposing that any one can doubt for a moment, upon the point. He is then, for this reason, unworthy of credit. But he is liable to successful impeachment as a witness upon another ground, still more fatal to his credibility: he has stated that he had no acquaintance with Meeks at the time of this unfortunate tragedy, and that he had never seen him until their meeting at the Galt House on the evening of the affray: he was cautioned, and put upon his guard upon cross examination, and was plainly told that there existed testimony upon this point, which would be introduced; still he obstinately persisted in this statement, notwithstanding the solemn oath which he had taken to tell the whole truth. The  *motive* in this departure from truth was plain and clear; he knew that a deliberate conspiracy, formed in the evening of the fatal night, between himself, *Meeks* and others; would be attempted to be proven, and he hoped to escape from the proof of this deliberately formed conspiracy, by establishing the fact that he was a stranger to Meeks. Now, let us see whether he was a stranger to Meeks or not. Nathaniel Jackson, a witness for the accused, states that sometime after the affair at Redding's shop, he was going by, and hearing an unusually loud talking, he went in to see who they were, and what was the matter. When he got into the room he found Redding, Johnson, *Meeks* and others, talking about the Wilkinsons and their conduct. Propositions were made by Johnson, and perhaps Meeks also, to go and take satisfaction, to this Redding did not readily assent, upon which Meeks said, "I will take satisfaction any how."

Here then is proof conclusive and complete, that Redding did know *Meeks* before their meeting at the Galt House on the night of the affray: according to Jackson, Meeks was in Redding's house, where it is not likely he would have been, if he and Redding were strangers to each other; Meeks seemed to take a deep interest in the concerns of Redding, which a *stranger* would not be likely to do, and they spoke and conversed with each other freely and familiarly, which, it seems to me, *strangers* would not be likely to do. Another witness, whose name I cannot now call, also spoke of seeing Meeks and Redding together before the Galt House affray; but this is enough for my purpose; it is sufficient to show that Redding departed from the truth, when he stated that he was a stranger to Meeks, and that the consequence is, *destruction* of his whole testimony. This, however, is not the only palpable mis-statement

which he has made. You will remember, gentlemen, how unwilling the witness was to state what *time* intervened between the fight at his own house, and the affray at the Galt House. He evaded the question as long as he could, and in every way that he could; at length, being compelled to answer, he said the time was about *half an hour*. In making this statement, the witness plainly acted in obedience to a corrupt motive, he had heard counsel and others say something about time enough intervening between fighting and killing, to allow the blood to cool and the passions to subside; he thought that if he could make it appear that he and his party went to take revenge before the passions had time to cool, that then he would be excused for the violation of law which he committed. But what says Redman, Montgomery and others, who are witnesses for the Commonwealth? Why, they all say, that the fight at Redding's took place between three and four o'clock, and Everett, another witness for the Commonwealth, states that it was six o'clock, and after, when the affray at the Galt House took place. Thus, does the witness stand falsified upon another important part of his testimony, and under the influence of motives that cannot be misunderstood. Having placed him in such an attitude, I have not thought it necessary to combat any thing more that he has said; before I dismiss him, however, I will take a little further notice of him. Bear in mind, gentlemen, that this witness is the life and soul of this prosecution, that it was he who marshalled his forces, and brought on the battle, after which he was seen no more till the battle was over. He no sooner saw the fight begin than he called reflection to his aid; he discovered, all at once, that "discretion was the better part of valor;" and, agreeing with the poet, he said to himself,—

"He who is in battle slain,  
Will never rise to fight again;  
But he who fights and runs away,  
May live to fight another day."

So, off he moves, gets out of the way of danger, and no witness who has testified, knows where he was, until all danger had passed. So much for Jno. W. Redding, the most important witness on the part of the Commonwealth, whose testimony I am sure you will cast to the winds as utterly unworthy of the slightest degree of credit.

The next witness for the prosecution, deemed by the counsel as of any value, is the celebrated William Johnson. The witness is proven to be one of the conspirators, and whose feelings must be presumed to be against the accused. He is a butcher by trade, and, in his testimony, has dealt so much in technicalities, that he has surprised us all. Enough has been shown by his manner and language to demonstrate his total unworthiness. This is the witness

who thinks that simultaneous blows were given by Murdaugh and Meeks; and he stands contradicted by the whole of the witnesses on the same side; this is the witness who thinks that Murdaugh returned the blows which he received from Meeks and from Rothwell, although it is admitted that Murdaugh had nothing with which such blows could have been returned. It is true that a knife is proven to have been in one of his hands, and with this knife he inflicted upon Meeks, no doubt, the mortal wound which caused his death; and in doing this, he did nothing more than he was justified in doing, as well by natural as by municipal law. He did not retreat, because it is in proof that he already stood with his back against a counter: he did not retreat, because the blows came so fiercely upon him, that delay might have cost him his life; he did not retreat, because he was in a Hotel as a boarder, the proprietors of which were bound to protect him, as much as he might have protected himself in his own house, and in truth, he was substantially in his own house in the eye of the law, at full liberty to defend himself against the felonious attack of all the world. If these things be true, and they are all proven before you, then Murdaugh's case stands protected and fortified by all those exceptions against the necessity of retreating which I have already brought to your view from high authorities. But even if the testimony for the Commonwealth had not made out the points which I have here stated; the evidence on the part of the accused would far more than supply the deficiency. Raily, Pearson, Brown, Sutherland, Chambers, and many others, all state that they saw Meeks strike Murdaugh twice with a cow-hide, and most of them state that they saw Rothwell strike twice with a stick, and surely this is enough to put to flight all doubts which Johnson's statement may have caused. In such a situation, what was Murdaugh to do? The counsel on the other side will tell you, perhaps, that Murdaugh ought to have opposed as much force as might be necessary to prevent the contemplated injury. Gentlemen of the Jury, Murdaugh is a man weighing rather more than an hundred pounds, and Rothwell is proven to have weighed more than one hundred and eighty pounds, whilst Meeks is admitted to have been a much larger man than Murdaugh; and now I will ask you to tell me what degree of force could Murdaugh have applied, short of death, to prevent the contemplated injury? He could apply none, as every one must admit. What then ought to have been done? Would you have him stand and receive in humble submission, the disgraceful infliction of stripes with a whip? No, gentlemen, when such an exigency arises, a Jury of Kentucky will not stop to enquire into the provisions of law, they will, with one voice, command the assaulted man to pre-

serve his honor and his character, by slaying, if necessary, him who seeks to degrade him. Gentlemen, the best way to test this thing, is to put yourselves in Murdaugh's place, and decide, each of you for yourself, what you would do: and as you would answer for yourself, so you will answer for Murdaugh. Imagine to yourselves a son who should submit to be publicly horsewhipped and then return to you and make an humble complaint against the wrong doer, how would you receive him? I know that I speak as well the sentiments of the father as the mother, when I say that such a son would find no favor at home from father, mother, brother nor sister. His disgrace would be eternal, he would be loathed and scorned by his fellow men, and a foot ball to all who might choose to make him so. Murdaugh violated no law, he was assailed by a lawless band, he had already a counter at his back and could retreat no further, and he was in his own house, his castle of defence. In this situation he relieved himself by slaying his enemy. The alternative was kill or be killed; he chose to kill, and in that choice he stands justified by every principle of divine, natural, and municipal law. The witness, Johnson, also states that he saw Judge Wilkinson stab Meeks, and in this he stands unsupported by every other witness in the cause. The whole testimony shows that whilst Murdaugh stabbed Meeks in one part of the room, Judge Wilkinson was in another part of the room, and could not have given the stab of which Johnson speaks. Let this witness then be viewed in his manner, his conduct, and his position as one of the lawless band; and I take it for granted that you will consider him as entitled to no credit whatever: besides all this, he stands contradicted by Nathaniel Jackson, who states that he saw Meeks, Redding, and Johnson, together in Redding's coffee house on the evening, (before this affray at the Galt House took place,) which statement is denied by Johnson, and the motive of denial is too plain to be concealed. Jackson stands as fair as any witness ever did, and can have no possible motive for stating any thing but the truth. So much for Johnson and his testimony; let him then sink into everlasting oblivion. The next witness whom I shall notice is Henry Oldham, another of the conspirators, whose testimony is stamped with falsehood upon every part of it. He states that he happened accidentally at the Galt House that evening; that he knew nothing of any contemplated affray; and that he was armed with a pair of pistols and a Bowie knife; that whilst in the passage, some body cut his arm with a knife, that it was too dark to distinguish clearly, but he thinks that the person who cut him was Doct. Wilkinson, who held in his hand a white handled knife; that nothing else occurred to him, and that when Murdaugh or Judge Wilkinson was going up stairs, he, (the wit-

ness) deliberately pulled out a pistol, loaded with a ball, which was cut into three pieces, and fired at the person going up stairs; and Everett, as well as other witnesses prove, that two holes were afterwards found at the head of the stairs, in the door-case, in the direction which he fired. Now, gentlemen, I ask you to look at this testimony, and reflect upon it, and when you have done so, tell me what you think of an individual who boldly acknowledges before a court and jury, that he went to the Galt House on the evening of the affray, armed, as I have stated, *without a motive*, and that he endeavored to take the life of an honorable man who had done him no wrong, by firing a loaded pistol deliberately at him. Tell me, gentlemen, what you think of such an *animal*? For, really, I cannot class him with human beings. The witness who will make such an acknowledgement, would not hesitate to swear to any thing which might, in his judgment, induce you to find a verdict of guilty, and I feel well assured, that his whole statement will be disregarded by you.

The witnesses, Craig and Redman, who have been examined by the Commonwealth, are proven to be the workmen of Redding, and at the time of the affray at Redding's house, were living with him. I take it for granted that, even if their testimony was material, you would consider, and decide upon it with great care and caution; neither of them, however, has said any thing worthy of notice, and I therefore, pass them over. Thomas A. McGrath, also, has been examined on the part of the Commonwealth. This witness is of very high respectability, and has made his statement, I have no doubt, with strict regard to truth. His statement, when examined, will be found very beneficial to the accused. He proves the abusive language used by Redding to Judge Wilkinson, and which was soon followed by a general fight. This abusive language, on the part of Redding, was, no doubt, agreed upon by the conspirators, as a signal, when the attack was to be made, and we accordingly find that an attack upon Murdaugh was made nearly about the time of this abuse of the Judge by Redding. But, gentlemen, I do not mean to make any further remark upon the testimony of McGrath; I know him well; I am satisfied that he is entitled to the highest credit; I hope, therefore, that you will believe every word that he has said, and when you look at his statement, you will find that he has said much more in favor of the accused, than against them. As to the remaining witnesses, examined on the part of the prosecution, I deem it unnecessary to consume your time in noticing what they have said; not, indeed, because they are not entitled, (many of them,) to high credit, but because they have not said any thing which materially affects the case, either

on the one side, or the other. The seeming discrepancy between the statements of most of the witnesses, and the statements of Robert Pope, and Daniel Trabue, will be examined when I come to the case of Judge Wilkinson; and you will then see that in truth the difference between the witnesses, is easily explained and reconciled.

I come now to the case of Doctor Wilkinson, who really is presented before you under very extraordinary circumstances. He has been arraigned before this court, gentlemen, upon two bills of indictment, found against him *for murder*, by a Grand Jury of Jefferson county; and I am justified in saying that this finding on the part of the Jefferson Grand Jury was without any evidence whatever, and as I am informed, without even the statement which has been made to you by the witness, Henry Oldham. It was this most extraordinary finding, gentlemen, that caused you to be troubled with this cause, and by looking well at this fact, together with other things which have come to your knowledge, you will be able to decide how far we have acted prudently, in taking the case out of the hands of a Louisville Jury. *Conviction*, we did not fear, but a divided Jury was what we deprecated. The testimony against Doctor Wilkinson, which has been given before you, is not entitled to a moment's consideration. It is given by Oldham, who, from his own showing, is entitled to no credit, and who unblushingly states that he aimed a deliberate shot at an unoffending individual. Why, Gentlemen, such a man deserved to be cut down by all who came near him; for, according to his own account of himself, he was an enemy to the human race, and went to the Galt House armed, prepared to kill whomsoever he might choose. But even this witness, bad as he is, does not state positively that he was cut by Doctor Wilkinson; at first, he stated that the passage was so dark that he could not distinguish who it was; but, being more closely examined by the counsel for the prosecution, he *took the track very kindly*, and was not only able to distinguish features, but was also able to discover that the man held in his hand a knife, with a *white handle*, although the handle of the knife must have been covered by the hand that held it; and the whole testimony, as to *time*, must convince you that it was nearly dark. But the most remarkable fact about this witness is, that no body has proven where he was cut, of what character the wound was, nor whether blood was drawn, or not. Certain it is, that he appeared before the examining Court in Louisville, two days after he states the cut to have been received by him, as a witness, apparently as well as any body, and never pretended to exhibit the wound. I dismiss him, without further comment, at this stage of the argument; intending to take further notice of him by and by, when I shall come to speak more fully than I have done, of the conspiracy that was



formed by this band of lawless men. As no other witness has said one word to inculpate Doct. Wilkinson; as all have proven how badly and how causelessly he was beaten; I cannot think it necessary to say one word more in his defence. There cannot be a living man, who will doubt his perfect innocence.

Having disposed of the cases of Murdaugh and Doctor Wilkinson, I now come to the case of Judge Wilkinson, and candor requires me to say, that it differs somewhat from the other two. It involves new principles of law, and though these principles are somewhat different from those on which I have heretofore relied, yet, they are not more difficult to understand, explain, and apply. The case of Judge Wilkinson, as one of the individuals against whom the conspirators proceeded with their unlawful design, is controlled and governed by the same law which control and govern the cases of Murdaugh and his brother, in its general aspect; but has a new and additional feature, not to be found in the other cases, and which new feature, involves the enquiry, *how far third persons are authorized to interfere to prevent a felony.* The Attorney for the Commonwealth has read to you from Foster, authority, showing, as he contends, in what *degrees* of natural and artificial relations in life, third persons may interfere, and he quotes the only passage to be found in the book *directly* upon the point. That passage declares that third persons may interfere to prevent the killing of those who bear the relations to each other of husband and wife, father and son, and servant and master; and these being all the degrees of relationship which are given by the author, it is contended by the Attorney, that no others are allowable. Upon this point I join issue with my worthy adversary.

To the authority itself, I yield all the obligation that can be desired; the difference between the Attorney and myself, is this; he contends that the cases put by Foster are a *limitation* of the principle, whilst I insist that they are given by way of *illustration* of the principle. I contend that those cases belong to a numerous *class of cases*, of which, the cases put by Foster are but examples. Why should not the brother be permitted to save the life of his brother, against an attempt to kill him, as well as that, the son may save the life of his father, or the husband the wife, or the servant the master? Does not the same reasoning apply? In a diminished degree, I admit, but is it not the same principle, resting upon the same reasoning, and springing from the same feeling? Surely these views are sound, and when the authority is well examined, in connection with the context, I think that but one opinion ought to prevail. If I am wrong in this view, gentlemen, then I must say that the interpretation given to this authority, by the Attorney for the Commonwealth,

will prove in its practical operation, that such a law is against public opinion, and the laws of nature, and consequently, cannot and ought not to be enforced. Is it seriously contended, gentlemen of the jury, that a brother must stand by, and witness a ruffian attack upon his brother and do nothing to relieve him? Must a brother permit his brother to be killed, when he has it amply in his power to prevent it? Shall a brother hesitate to take the life of one, who makes an unprovoked, and felonious attack upon his brother? God forbid that a jury of our country should ever be found, willing to render a verdict of guilty against a brother, who kills the violent assailant of a brother, under circumstances portending death, or great bodily harm to such brother. I cannot agree, gentlemen, that such is the law, and if I could so agree, I should not hesitate to denounce such doctrines, and implore you to do the same thing; rather than break down the walls of society, and scatter to the winds the cement which binds us together. But, if there were doubts upon this subject, the authority before read to you from Lord Hale, will put to flight those doubts; for, in that case, a *stranger* is authorized and justified in killing one who attempts to commit a felony upon a *stranger*; and the reasoning is, that since the Commonwealth must lose one of her citizens, it is better to lose the *bad* citizen than the *good* one; for, the felonious attack, proves the one to be bad, whilst the other must be considered as a good citizen. With this exposition of the law, let us enquire into the case of Judge Wilkinson, who stands indicted for the killing of Rothwell, and I think you will agree with me in saying that he stands justified or excused, by every principle of natural and municipal law; and here, gentlemen, I shall assume, as true, what I shall presently demonstrate by the evidence; that Judge Wilkinson, whilst in the bar-room of the Hotel at which he was boarding, found himself in the same room with a band of lawless conspirators, who had associated themselves together for the purpose of seeking out himself and his companions, Murdaugh and Doctor Wilkinson, and after finding them, to degrade and disgrace them by a public horsewhipping, and in the event of resistance, to take their lives, with weapons which they carried with them for the purpose, and in contemplation of that resistance, which they expected to find. Gentlemen of the Jury, I have now reached the point, at which I consider the most important developements in this whole transaction are to be made, as far as they can be made, by a comparison of the law and the evidence, one with the other: I have reached a point in the argument, where I shall endeavor to unveil to you, from the evidence, one of the boldest combinations of lawless men, for the purpose of uprooting all the great principles of society, that ever attempted to execute their plans in

the face of any civilized community and from the consummation of which, they were prevented only by the firm and chivalric spirit which animated and sustained the accused in their determination of self-defence. In forming their plans, the conspirators acted with great caution, they were very sensible of the outrage which they had determined to perpetrate, and evidently feared the consequences which might arise, and they prepared themselves with deadly weapons to rush into extremes. They formed a combination, consisting of seven men, most of whom are distinguished for their athletic power. These seven men we have identified with the conspiracy, by testimony not to be questioned. Their names are, John W. Redding, William Johnson, Meeks, Marshall Halbert, Henry Oldham, Bill Holmes and John Rothwell; four of whom have been proven to be very stout and powerful men. Their object was to attack, beat, disgrace or kill, the three weak and feeble men who stand indicted before you, and whose strength you can now judge of by your own view. The history is this—Redding supposed, by an affray which had taken place at his shop, between three and four o'clock of Saturday, the 15th December last, that he had been injured and aggrieved; whether he judged rightly or not, I shall not pretend to decide, because for this supposed wrong, he has indicted the accused in a separate proceeding, and instituted a civil action to recover damages; these indictments, and civil suits are now depending and undetermined, and have no connection whatever, with the case before you. After the supposed injury at his shop had taken place, Redding called around him his advisors, and after consultation, it was determined that *Bill Holmes*, and others, should be applied to, that a strong band of desperadoes should be formed, and that they would proceed to the Galt House that night, and take revenge of the "Mississippians," to use the language of some of the witnesses. They accordingly, met at the Galt House just before dark, and proceeded to execute their unlawful design; in what way, and with what success, you are informed by the testimony. But it may be said, that I have stated the conspiracy, without proving the facts: Gentlemen, I know I have, but I mean to take up the testimony, and prove that what I have stated is true; and, in doing this, I shall consume as little of your time as possible, because I feel very sure that you see this branch of the cause in the same aspect that I do.

The first witness to whose statement upon this point I shall call your attention is that of Nathaniel Jackson. He states that he was passing by Redding's shop soon after the fight there, and that the loud talking inside of the house induced him to go in and see what was the matter. Upon entering the house, amongst others who were there, he found the

unfortunate Meeks, Johnson and Redding. Propositions to recruit and enlist men to do the very thing attempted, were made by Johnson and Meeks to Redding, in presence of the witness, which was not agreed upon whilst the witness remained in the house, but he left them in the house talking the matter over. In the course of the same evening the witness met William Johnson on the street, when Johnson unhesitatingly proposed to the witness that he should join a party who were going to the Galt House that night to see Redding righted. The witness declined it, and with other things said that he belonged to the church, and such conduct would not be proper in him; whereupon Johnson said, "*Church, Hell or Heaven*," he ought to go. The witness and Johnson separated at this point. Jackson also states that whilst he was at Redding's shop, William Johnson said to those around him "if Jack (meaning John W. Redding) will only say the word, we will go and get *Bill Holmes* and others, and give them *Hell*," meaning the accused. This is the first link in one chain of testimony upon the formation of the conspiracy, and I beg gentlemen that you will bear it in mind. Our next witness is E. R. Deering, who states that in the evening of the day before the meeting at the Galt House he met with William Johnson at the end of the market house and Johnson either proposed to the witness "to go along with the party, or that he was going after *Bill Holmes* and others to go to the Galt House." No matter which, either will answer my purpose. The witness said to Johnson that if the Mississippians had heard of their design, they would be gone before the party could get to the Galt House; whereupon Johnson replied that "enough were already gone to the Galt House to take care of the Mississippians, and that if they attempted to go away, *their hides would not hold shucks*." The witness then separated from Johnson. This is the second link in a chain of testimony upon this point. Our next and last witness upon this point is Alfred Harris; he states that, "in the course of the same evening, Johnson applied to him to make one of the party who were going to the Galt House to see Redding righted." Redding himself acknowledges that he had gone to the jail that night just before dark, and as he returned, he called at John Rothwell's, and procured Rothwell to go with him to the Galt House, and that they did go there together. Now gentlemen I ask you to put these facts together, and decide for yourselves whether this man William Johnson was not the active man who, (under a previous arrangement no doubt) was busily engaged in getting as many individuals to engage in this lawless and bloody affair as he could procure? Continue your view, and see who were at the Galt House. Why, you will find the very names that I have mentioned all ready to do the bloody work. Are you

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not satisfied gentlemen that Johnson and Redding succeeded in enlisting these men, for the very purpose which I have mentioned, and have I not redeemed my promise, to make good the statement I made from the testimony? But these conspirators seem to think that they would be able to deceive the public by proving, as they have proven, that they arrived at the Galt House separately and at different times, and by different routes. Why, gentlemen, this is precisely what they would do under such circumstances, and the fact of their seizing upon this point is proof that they had looked at it before, and that they meant to use it if necessary, upon any trial that might take place. It is the very thing which satisfies my mind that all things had been talked in due season, and this arrangement had been agreed upon between them for the very purpose which they now attempted to use it. They no doubt agreed to meet at the Galt House by a particular hour, but that they must go separately at different times, and by different streets, so as to keep down suspicion; but they did not succeed even in this, for their own witness (Everett) a very observing and intelligent man, and one of the occupiers of the Galt House tells you amongst other things that as soon as he saw these strange faces at the Galt House in such numbers, he became alarmed, and knew that something rash would happen; and further states that, "he was satisfied that if the affair at Redding's had not taken place, the men whose presence alarmed him would not have been there." Now gentlemen look at these words, and the witness from whom they came. The witness is an intelligent and honorable man, and he appears for the prosecution. From his own statement, what was his opinion of what he saw at the time he was looking at these men? Why, clearly and obviously that he believed these men had assembled themselves together at the Galt House to beat and take revenge for what had happened at Redding's shop. He saw it in their very look, manner, and language, and this cannot be doubted. Well, gentlemen, if Everett saw this by merely looking at the men, could not the accused also see the same things? And if they did, ought they not to put themselves in a proper attitude of defence? Surely you will agree with me in saying they ought, and accordingly when Judge Wilkinson came down stairs after having left the bar-room, he brought with him an efficient weapon of defence. We have had much difficulty in proving what arms these conspirators had with them, and, all things considered, it is wonderful that we have been able to prove so much on that point; yet we have proven that Redding had a bowie or dirk knife, which he borrowed that evening from Mr. Fulton. We have also proven that Oldham had a pair of pistols and a bowie knife; and we have proven

that nearly all had knives and whips, and that one of them had a sword cane. Thus gentlemen have I shown to you that this unlawful combination was deliberately formed, and that they proceeded to execute their unlawful purpose *with malice aforethought*; though, according to law, it would be entirely immaterial whether the conspiracy was entered into, before or after they arrived at the Galt House. Their guilt is as bad in one case as the other. I will now return to the point from which I digressed in order to prove the conspiracy. Judge Wilkinson found himself and his comrades in the same room with seven strong stout men, who, he could not doubt, had come there to beat, disgrace, and kill himself and his companions, and perilous as was his situation, he remained in a cool, collected state of mind and feeling. To use the language of one witness, he looked like a philosopher. He had been grossly abused by Redding, but all he said was, *keep your hands off me, or I will kill you*. He remained in the room whilst blood and death were dealing out around him. One man was already dead, and his eye was attracted to a part of the room where some man was down and several large men beating him, amongst whom was the unfortunate Rothwell. He soon discovered that the man who was down was his brother, and his death seemed inevitable. In a situation so full of difficulty what was Judge Wilkinson to do? He himself was wounded in the shoulder and scarcely able to continue the fight. But what was he to do? Must he look on and see his brother beaten to death, or must he interfere, and save him by using the weapon which he held in his hand. Say, gentlemen, what was he to do? What would you and each of you have done, if placed in the same situation? Gentlemen, I know what you would have done, because I know what you ought to have done; you would have done as Judge Wilkinson did; slay the man who was feloniously engaged in slaying your brother. This is what every brave and gallant man ought to do under such circumstances, and his justification will be found in the law of nature, in the case from Hale, as well as the general principles of municipal law, as already stated, in the approbation of his own conscience and in the plaudits of mankind, in every civilized community. I am now very nearly done with the evidence; but the testimony of Daniel Trabue and Robert Pope, very respectable gentlemen, and witnesses for the Commonwealth, differing somewhat from others in relation to the *place* in the room where Rothwell was stabbed, I think it proper to make a single remark upon their statements, merely to show that the fact is not material, be it one way or the other. These witnesses state that they saw Judge Wilkinson stab Rothwell in a place in the room different from that stated by the other witnesses;

be it so, but remember that General Chambers states that when the attack was made on Doctor Wilkinson, the fighting went around the room until Doctor Wilkinson fell in a particular corner, and therefore it is not material at what place in the room the fatal stab was given, so that it was given whilst the Doctor was suffering a course of alarming and apparently felonious beating. But these witnesses must be mistaken, because General Chambers who was a very deliberate observer, and has given his testimony with great clearness and composure, says that he saw Rothwell beating Doctor Wilkinson at the time with a large stick, that the stick had somewhat lost the firm grip of his hand, and whilst he was adjusting it, in order to recover his grip, and aim a more efficient blow, Judge Wilkinson gave him his stabs, which perhaps caused his death, according to the opinions of some, but according to the opinions of Doctors Knight and McDowell did not cause the death of Rothwell, but that his death was produced by a small wound in the breast, which penetrated the lungs, and which was given by an instrument very different from the bowie knife held by Judge Wilkinson. These two doctors were called on after death to make *post mortem* examination. Besides, the whole current of testimony sustains General Chambers in his statement, and therefore his statement ought to preponderate.

Gentlemen of the Jury, I am approaching the close of my argument, and shall have but little occasion to refer again to the testimony. If Judge Wilkinson had not relieved his brother as he did, better would it have been for him, if he never had been born. He could not again have looked society in the face, nor would he afterwards have received the countenance of any honorable man. In this country public opinion controls and governs the conduct of all men, and we are forced to act in obedience to it, whatever law to the contrary may exist. We wish not only to acquit these honorable men, but we wish, by the aid of your verdict, to return them to their state and to their friends *brightened* by the severe crucible through which they shall have passed; we wish them to carry back with them the pure and spotless characters by which their integrity and morality were shielded when they left their homes in December last.

To John W. Redding may be ascribed the bloody tragedy which has been discussed; to him belongs the death of Rothwell and of Meeks, and if he is a man of feeling, the residue of his days will be dark and gloomy. The ghost of Banquo did not more terribly haunt the imagination of Macbeth, than will the ghost of Rothwell haunt and follow him through the remaining part of his life; nor will he be able to say to the bloody ghost of Rothwell what Macbeth said to the bloody ghost of Banquo, "You cannot

shake your gory looks at me, you cannot say 'twas I that did it." The ghost of Rothwell will shake its gory locks at him, and *will* say that, though you did not do it with your own hands, you caused it to be done by the hands of others. Upon Redding's head rests the blood of the murdered Meeks and Rothwell, and the water of oceans will never be able to wash out the deadly stain: let him repose under this mighty weight, with the best grace that he can; I shall never again disturb him with its recital.

Gentlemen of the jury, I have endeavored to show to you that this unlawful attack upon the accused, made by the conspirators at the Galt House on the night of the 15th December last, was the fruit of a deliberate and malicious combination formed for the purpose, some three or four hours before it was attempted to be executed, and if I have succeeded in this, then I ask you to apply the law which I have already read from the highest authority. This law declares that, an attack made by one of an unlawful combination of many, is an attack by all, and that if any one be killed, that *all* who were combined, though some might be in another room of the same house, shall be equally guilty of murder; and consequently if one or more of the conspirators be killed, such killing shall be excusable according to English law, and *justifiable* as I conceive, according to the proviso from the law of Kentucky, which I have also read to you. Nor is this the only view which you are to take of this branch of the subject. The attack of one of the unlawful combination being an attack by all, it follows irresistably that all of those who shall be attacked, may resist it at the moment the attack is made; and that therefore, as soon as Murdaugh and Doctor Wilkinson were assaulted, Judge Wilkinson, though he himself might not have been struck, might interfere, and prevent the felony which was contemplated, by killing such of the conspirators as were engaged in the unequal combat. This is the law according to the authorities read, and that Murdaugh and Doctor Wilkinson were violently assaulted in the beginning of the affray, is clearly proven to you by the Commonwealth's own testimony. But Judge Wilkinson had also been attacked before he gave the mortal wound to Rothwell, for it is proven by the testimony that he had a wound in the shoulder two and half inches long and of dangerous direction, and therefore he was doubly justified in killing those who were engaged in this violent and unlawful combination.

It is due to the accused, gentlemen of the jury, that I should say something more of them before I close. I have known these gentlemen and their fathers before them, almost from their infancy. I knew them in our mother state, Virginia. They grew up into manhood without a blemish upon their

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characters; they carried with them to their adopted state, (Mississippi) the fairest and best reputations, and they have maintained their standing there without a blemish as you are told by the testimony. A regard for peace, a profound respect for the laws, a determination to conduct themselves towards all as good members of society should do, seem to be traits of character strongly stamped upon their whole course of life, as the best members of society could desire. To believe, therefore, with all this evidence of good character and moral integrity before us, that they would wantonly have attacked a set of *strangers* whom they never had seen before, would be to reverse the qualities of all human nature; and knowing them as well as I do, I would not believe it, though witnesses from heaven should come and testify to the facts. But the facts proven even by mortals, do not show them guilty of any thing but a determination to defend themselves. Judge Wilkinson had come to Kentucky at the time for the purpose of executing and consummating the most important and holy contract which man can enter into. On the Tuesday of this bloody tragedy, he was to take to his bosom as his wife, one of the most lovely girls of Kentucky; and all the considerations which spring from such a prospect naturally prompted him to avoid all personal dangers. His natural disposition and his delicate situation at the time, united in keeping him thoughtful of his own safety; and it would be one of the most violent of all presumptions to suppose that at such a time and under such circumstances, he would be found violating the law, and hazarding his own existence.—No, gentlemen, such an opinion cannot for a moment be entertained; necessity alone prompted him to action, and however tragical may have been the consequences, *that necessity* is the only thing which he deplures. A necessity forced upon him by a band of violent, athletic and lawless men, who sought him in his own house, to degrade and disgrace him by public chastisement. There is no part of the United States where a man would be punished for such conduct, and least of all, is it to be expected at the hands of a *Kentucky* jury, composed of men whose fathers taught, themselves, into their homes, and were distinguished by a spirit of chivalry which enabled them to subdue every foe, and surmount every danger. With you, the descendants of such gallant sires, may safely be entrusted, this, and every other cause, which involves the sacred principles of honor.

Before I take my seat, I beg leave to say one word to the distinguished gentleman who has been employed to aid in this prosecution. I regret, most sincerely regret, to see the practice of hired counsel, in criminal cases, gaining ground in this commonwealth. Under its influence the heart becomes cor-

roded and steeled against all the sympathies of our nature. The learned gentleman who is aiding in this prosecution, is to receive one thousand dollars for his services, and from the very nature of his bargain, as it has been proven, he must have undertaken to convict, if he can, whether the accused be innocent or guilty. Three times have we met him; first at the examining court, next at the circuit court of Jefferson, and now before this court. Here the generous and gallant Hector takes his last, his final stand, and his fate is, victory or death. Three times has he been pursued around the walls of Troy, and as he cannot now speak for himself, I will speak for him, and will use his own words:

Too long, oh son of Peleus, Troy has viewed,  
Her walls thrice circled, and her chief pursued.  
But now, some god within me, bids me try  
Thine or my fate, I kill thee, or I die.  
Come then, the glorious conflict let us try,  
Let the steel sparkle, and the javelin fly.

But the gentleman will probably say that the beautiful quotation which I have made from the still more beautiful *Illiad*, is neither an apt, nor an appropriate illustration, since, in the combat between Hector and Achilles, Hector was vanquished and slain: in answer to which I say, that, in these ancient days, the Gods were supposed to hold in *their* hands the fate of men and of nations, and that they invariably decided according to the principles of right and justice: in more modern times, gentlemen of the jury, you have been substituted for the gods; you hold in your hands the fate of my gallant and much injured friends; and, not less just than the gods, you, too, will decide according to right and justice. Do this, as I know you will, and we shall be content.

The distinguished gentleman, who aids in this prosecution, has furnished us with some proof of the corroding influence upon the human heart, caused by a long indulgence in prosecution for alleged crimes: I am sure that nature gave him a kind and generous disposition, and that he is still possessed of those amiable qualities. I do not doubt but he has so long lent his aid in prosecutions of this kind, that he has brought himself "to look on blood and carnage with composure." He will doubtless make, as he has heretofore made, a bold and mighty effort to convict the accused, though in my judgment, such conviction would be against both the law and the evidence. Neither the shrieks nor the tears of the lovely Andromache, nor the groans and lamentations of the aged Priam, can stay him in his fierce pursuit; the wife and the father sink into nothingness when compared with the glittering fee that awaits his efforts; he has bargained for conviction, and he goes for his bond; give it to him gentlemen; tell him to take his pound of flesh, but tell him

at the same time, that if in cutting it, he spills one drop of blood, Shylock himself shall be the only victim of the law.

You have now heard this bloody history, gentlemen, in the best form permitted by my feeble health; and whether you take it into consideration upon the exclusive testimony of the commonwealth, or whether you view the testimony on both sides, your minds must arrive at the same conclusion. In either case, I know that your verdict will be, *not guilty*.

Gentlemen of the jury, in conclusion, I will say that, if it were necessary, I would invoke the lovely beauty by which we are surrounded,\* to aid me in a cause so just and holy; I would ask them to indicate to you their feelings in favor, (as I know they are) of my persecuted and much injured friends; for after all, we exercise our energies, and are stimulated to generous and noble deeds, for the sake of woman, and when she commands, we are bound to obey: take woman from the world, and the dark planet is left, without a sun.

Gentlemen, I have done; so far as I am concerned the case is with you; and if law, justice and evidence, can favor us in the cause we dread not your verdict, for we have all on our side.

\* About two hundred ladies were present.

[An unexpected delay in endeavoring to get the succeeding speech authenticated, rendering it necessary to fill up this half and the next whole column, in order to put this form to press, it is presumed the following sketches will possess sufficient interest to render the insertion of them here excusable.

The Prosecuting Attorney, Mr. Bullock, who opened the argument, is a young man, not apparently thirty years of age, and much respected for his private worth, as well as his promising professional abilities. It will be observed in his speech that he is more remarkable for a plain and common sense method of statement than for any ambitious straining after display. The matter in hand, and the honest enforcement of the law, as he conceives its bearing, principally occupy his thoughts, and nerve his discourse. His manner is not deficient of ardour, but an ill-controlled diffidence, and some little affectation to conceal its awkward effects in delivery, with an occasional hesitation in choosing an expression exactly suitable to his meaning, too often check that flow of language which is essential to graceful oratory. Considerable allowance, should, however, be made for a young lawyer of limited experience in such weighty causes as that now in progress, and especially in the presence of distinguished orators, such as seldom can be congregated on a trial of this kind.

Col. Robertson is, perhaps, over sixty years of age,

and but for the effects of feeble health, would probably look much younger. His appearance in person and manners is that of a polished gentleman of the old school, when, amongst the shining lights of the Old Dominion, for the Colonel is a native of Virginia, ruffled shirts, gold headed canes, and starched frills, so appropriately graced the studied suavity of court manners. The Colonel's oratory partakes of the same gentlemanly and studied propriety, consequently it savors more of cold declamation, than fervid eloquence. But it is by no means deficient of flowing language, point, perspicuity, and strength of argument. In matters of law and research, the Colonel displays considerable industry, as it will be observed, that in his speech of scarcely an hour, he touched all the points of argument subsequently adverted to by his coadjutors.

At the conclusion of Col. Robertson's speech, which occupied nearly an hour in the delivery, the Hon. S. S. Prentiss rose, as expressed by the writer in his correspondence from Harrodsburgh during the trial, "greeted by aspirations from the sweetest lips in the world—the fair enchantresses who hold the magic wand over man's happiness in this sublunary sphere. He would, indeed, be less than mortal, if he could plead the cause of mercy before that gallery of lovely beings without impassioned eloquence; and gloriously did Mr. Prentiss redeem the anticipations of many a throbbing bosom in that galaxy of beauty; where, to be enshrined and cherished, but for a moment, even by the electric spark of eloquent communion, were a rich reward."

As this passage from the correspondence alluded to, and that which follows, have both gone the rounds of the press, from one corner of the Union to the other, it may fairly be inferred the estimate given of the "observed of all observers," is appreciated as it was meant, and they may with propriety be placed on permanent record here.

"Those who have seen and heard Mr. Prentiss, will not be easily satisfied with any faint attempt to depict his merits. Those who have not, will hardly have their anticipations realized by any thing short of the opportunity of judging for themselves. I must content myself with giving a mere outline of my own impressions. His height is under the middle size, and person not remarkable for any thing particularly striking; and although his countenance is pleasing and intellectual, and the formation of his head favorable to the belief that he possesses a phrenological development of every superior mental organ, yet wanting that elevation which a commanding figure alone can give, he would probably pass without exciting more than ordinary attention, if no occasion presented itself of calling his powers of eloquence into action. When he speaks, if he always speaks as he did yesterday, it is indeed no

wonder if he demonstrates in his own person, that the highest order of human genius, is that which is gifted with transcendent eloquence. He spoke with all the ardor of unconquerable friendship under varied excitements; and with a depth of feeling and power of expression, which it would take eloquence scarcely less than his own to describe. When he spoke of the undoubting faithfulness with which his heart clung to his friend, Judge Wilkinson, through good report and evil report; of the bright land which gave them birth; of the beloved State of their adoption, and of the sad fatality which had induced that unhappy deed, that placed him at the bar, a pleader, and his friend before that tribunal as an imputed criminal—his whole frame thrilled with an emotion which radiated like animal magnetism to every bosom in that vast assembly. Mr. Prentiss's style of oratory appears to me, impassioned, glowing, and occasionally highly figurative; always lofty and refined, yet nervous, manly and powerful. He sometimes sports gracefully with sarcasm, but seems to delight more in the extremes of eulogy or denunciation than in the consecutive impressment of argument."

In three or four minutes after Col. Robertson had concluded, the Hon. S. S. Prentiss rose and addressed the jury as follows:—

May it please your honor, and you gentlemen of the jury:—I rise to address you with mingled feelings of regret and pleasure.

I regret the occasion which has caused me thus accidentally and unexpectedly to appear before you, and has compelled you to abandon, for a time, the peaceful and quiet avocations of private life, for the purpose of performing the most important and solemn duty which, in the relations of civilized society, devolves upon the citizen.

I regret to behold a valued and cherished friend passing through one of the most terrible ordeals ever invented to try the human feelings or test the human character; an ordeal through which, I do not doubt, he will pass triumphantly and honorably, without leaving one blot or stain upon the fair fame that has been so long his rightful portion; but through which he cannot pass unscathed in his sensibilities and feelings. The lightning scar will remain upon his heart; and public justice herself cannot, even though by acclamation through your mouths she proclaims his innocence, ever heal the wounds inflicted by this fierce and unrelenting

prosecution, urged on as it has been, by the demons of revenge and avarice.

Most of all do I regret the public excitement which has prevailed in relation to those defendants; the uncharitable pre-judgment which has forestalled the action of law; the inhospitable prejudice aroused against them because they are strangers, and the attempt which has been, and is still making, to mingle with the pure stream of justice, the foul, bitter, and turbid torrent of private vengeance.

But I am also gratified; gratified that the persecution, under which my friends have labored, is about to cease; that their characters as well as the cause of public justice, will soon be vindicated; that the murky cloud which has enveloped them will be dissipated, and the voice of slander and prejudice sink into silence before the clear, stern, truthful response of this solemn tribunal.

The defendants are particularly fortunate in being tried before such a tribunal. The bearing and character of his honor who presides with so much dignity, give ample assurance that the law will be correctly and impartially laid down; and, I trust, I may be permitted to remark, that I have never seen a jury in whose hands I would sooner entrust the cause of my clients, while, at the same time, I am satisfied you will do full justice to the Commonwealth.

I came before you an utter stranger, and yet I feel not as a stranger towards you; I have watched during the course of the examination the various emotions which the evidence was so well calculated to arouse in your bosoms, both as men and as Kentuckians; and when I beheld the flush of honorable shame upon your cheeks, the sparkle of indignation in your eyes, or the curl of scorn upon your lips, as the foul conspiracy was developed, I felt that years could not make us better acquainted. I saw upon your faces the mystic sign which constitutes the bond of union among honest and honorable men; and I knew that I was about to address those whose feelings would respond to my own. I rejoiced that my clients were, in the fullest sense of the term, to be tried by *a jury of their peers*.

Gentlemen of the jury, this is a case of no ordinary character, and possesses no ordinary interest. Three of the most respectable citizens of the State of Mississippi stand before you, in-

dicted for the crime of murder, the highest offence known to the laws of the land.

The crime is charged to have been committed not in your own county but in the city of Louisville, and there the indictment was found.—The defendants during the past winter, applied to the Legislature for a change of venue, and elected your county as the place at which they would prefer to have the question of their innocence or guilt investigated.

This course, at first blush, may be calculated to raise in your minds some unfavorable impressions. You may naturally enquire why it was taken; why they did not await their trial in the county in which the offence was charged to have been committed; in fine, why they came here? I feel it my duty before entering into the merits of this case, to answer these questions, and to obviate such impressions as I have alluded to, which, without explanation, might very naturally exist.

In doing so it will be necessary to advert briefly to the history of the case.

My clients have come before you for justice. They have fled to you, even as to the horns of the altar, for protection.

It is not unknown to you, that upon the occurrence of the events, the character of which you are about to try, great tumult and excitement prevailed in the city of Louisville. Passion and prejudice poured poison into the public ear. Popular feeling was roused into madness. It was with the utmost difficulty that the strong arm of the constituted authorities, wrenched the victims from the hands of an infuriated mob. Even the thick walls of the prison hardly afforded protection to the accused. Crouched and shivering upon the cold floor of their gloomy dungeon, they listened to the footsteps of the gathering crowds; and ever and anon, the winter wind that played melancholy music through the rusty grates, was drowned by the fierce howling of the human wolves, who prowled and bayed around their place of refuge, greedy and thirsting for blood.

Every breeze that swept over the city bore away slander and falsehood upon its wings.—Even the public press, though I doubt not unwittingly, joined in the work of injustice. The misrepresentations of the prosecutor and his friends became the public history of the transaction; and from one end of the union to the other, these defendants were held up to public

gaze and public execration as foul, unmanly murderers, and that too before any judicial investigation whatever had occurred, or any opportunity been afforded them for saying a single word in their defence.

I recollect well, when I received the first information of the affair. It was in some respectable newspaper, which professed to give a full account of the transaction, and set forth with horrible minuteness, a column of disgusting particulars.

Instantly, openly, and unhesitatingly, I pronounced the paragraph false, and tramped it under my heels: when rumor seemed to endorse and sustain the assertions of the public prints, I laughed her to scorn. I had known Judge Wilkinson long and well. I knew him to be incapable of the acts attributed to him, or of the crime with which he was charged. Not an instant did I falter or waver in my belief. I hurled back the charge as readily as if it had been made against myself. What! a man whom I had known for years as the very soul of honor and integrity, to be guilty, suddenly and without provocation, of a base and cowardly assassination! One whose whole course of life had been governed and shaped by the highest moral principle; whose feelings were familiar to me; whose breast ever had a window in it for my inspection, and yet had never exhibited a cowardly thought or a dishonorable sentiment; that such a one, and at such an era in his life too, should have leaped at a single bound the wide gulf which separates vice from virtue, and have plunged at once into the depths of crime and infamy! Why, it was too monstrous for credence. It was too gross for credulity itself. Had I believed it, I should have lost all confidence in my kind. I would no longer have trusted myself in society where so slender a barrier divided good from evil. I should have become a man hater, and Timon-like, gone forth into the desert, that I might rail with freedom against my race. You may judge of my gratification in finding the real state of facts in the case so responsive to my own opinion.

I am told, gentlemen, that during this popular excitement, there were some, whose standing and character might have authorized the expectation of a different course of conduct, who seemed to think it not amiss to exert their talents and influence in aggravating instead of assuaging the violent passions of the multitude.



I am told that when the examination took place before the magistrates, every bad passion, every ungenerous prejudice was appealed to. The argument was addressed not to the court, but to the populace.

It was said that the unfortunate individuals who fell in the affray were *mechanics*; while the defendants were *Mississippians*, *aristocratic slave-holders*, who looked upon a poor man as no better than a negro. They were called *gentlemen*, in derision and contempt. Every instance of violence which has occurred in Mississippi for years past was brought up and arrayed with malignant pleasure, and these defendants made answerable for all the crimes which, however much to be regretted, are so common in a new and rapidly populating country. It was this course of conduct and this state of feeling which induced the change of venue. I have made these remarks, because I fear that a similar spirit still actuates that portion of this prosecution, which is conducted, not by the state, but private individuals.

I am not aware that the Commonwealth of Kentucky is incapable of vindicating her violated laws or unwilling to prosecute and punish the perpetrators of crime. The district attorney has given ample proof that she is provided with officers fully capable of asserting her rights and protecting her citizens; and with the exception of one or two remarks, which fell from him inadvertently, I accord to his observations my most unqualified approbation: he has done equal justice to the state and the defendants; he has acquitted himself ably, honorably, and impartially. But, gentlemen, though the state is satisfied, the prosecutor is not. Your laws have spoken through their constituted agent; now private vengeance and vindictive malice will claim to be heard. One of the ablest lawyers of your country, or of any country, has been employed to conduct the *private part* of this prosecution; employed, not by the commonwealth, but by the real murderer; him whose forehead I intend, before I am done, to brand with the mark of Cain—that in after life all may know and all may shun him. The money of the prosecutor has purchased the talent of the advocate; and the contract is, that *blood* shall be exchanged for *gold*. The learned and distinguished gentleman to whom I allude, and who sits before me, may well excite the apprehension of the most innocent. If rumor speak

truth, he has character sufficient, even though without ability, and ability sufficient, even without character, to crush the victims of his purchased wrath.

I said that, with the exception of one or two remarks, I was pleased with the manly and honorable course of the commonwealth's attorney. Those remarks seemed to be more in the spirit of his colleague than in accordance with his own feelings.

I was sorry to hear him mention so pointedly, and dwell so long upon the fact, that the defendants were *Mississippians*, as if that constituted an ingredient in their crime or furnished a proof of their guilt. If to be a Mississippian is an offence in my clients, I cannot defend them; I am myself *particeps criminis*. We are all guilty; with malice aforethought, we have left our own bright and beautiful homes, and sought that land, the name of which seems to arouse in the minds of the opposing counsel only images of horror. Truly the learned gentlemen are mistaken in us; we are no cannibals, nor savages. I would that they would visit us, and disabuse their minds of these unkind prejudices. They would find in that far country thousands of their own *Kentuckians*, who have cast their lot by the monarch stream, in the enjoyment of whose rich gifts, though they forget not, they hardly regret the bright river upon whose banks they strayed in childhood. No state has contributed more of her sons to Mississippi than Kentucky; nor do they suffer by being transplanted to that genial soil. Their native state may well be proud of them, as they ever are of her.

But I do injustice to you and to myself by dwelling upon this matter. Here in the heart of Kentucky my clients have sought and obtained an unprejudiced, impartial jury. You hold in your hands the balance of justice; and I ask and expect that you will not permit the prosecution to cast extraneous and improper weights into the scale, against the lives of the defendants. You constitute the mirror, whose office it is to reflect, in your verdict, the law and the evidence which have been submitted to you. Let no foul breath dim its pure surface and cause it to render back a broken and distorted image. Through you now flows the stream of public justice; let it not become turbid by the trampling of unholy feet. Let not the learned counsel who conducts the private part of this prosecu-

tion act the necromancer with you, as he did with the populace in the city of Louisville, when he raised a tempest which even his own wizard hand could not have controled.

Well may he exclaim, in reference to that act, like the foul spirit in Manfred:

I am the rider of the wind,  
The stirrer of the storm;  
The hurricane I left behind  
Is yet with lightning warm.

Aye, so it is still "with lightning warm." But you, gentlemen, will perform the humane office of a conductor, and convey this electric fluid safely to the earth.

You will excuse these prefatory observations: they are instigated by no doubt of you, but by a sense of duty to the defendants. I wish to obviate, in advance, the attempts which I know will be made to excite against them improper and ungenerous prejudices. You have seen in the examination of one of the witnesses, Mr. Graham, this very day, a specimen of the kind of feeling, which has existed elsewhere, and which I so earnestly deprecate. So enraged was he, because the defendants had obtained an impartial jury, that he wished the whole Legislature in that place not to be mentioned to ears polite, and that he might be the fireman; and all on account of the passage of the law changing the venue. Now, though I doubt much whether this worthy gentleman will be gratified in his benevolent wishes, in relation to the final destiny of the Senate and House of Representatives of this good commonwealth; yet I cannot but believe that his desires in regard to himself will be accomplished, and his ambitious aspirations fully realized in the ultimate enjoyment of that singular office which he so warmly covets.

Gentlemen of the Jury—I ask for these defendants no sympathy; nor do they wish it. I ask for them only justice—such justice alone as you would demand if you occupied their situation and they yours. They scorn to solicit that from your pity which they challenge from your sense of right. I should illy perform towards them the double duty which I have assumed, both of friend and advocate, did I treat their participation in this unfortunate transaction otherwise than candidly and frankly; did I attempt to avoid responsibility by exciting commiseration. I know that sooner than permit deception and concealment in relation to their conduct, they would bare their necks to the loathsome

fingers of the hangman; for to them the infamous cord has less of terror than falsehood and self-degradation.

That these defendants took away the lives of the two individuals whose deaths are charged in the indictment, they do not deny. But they assert that they did not so voluntarily or maliciously; that they committed the act from stern and imperative necessity; from the promptings of the common instincts of nature; by virtue of the broad and universal law of self-defence; and they deny that they have violated thereby the ordinances either of God or man. They admit the act and justify it.

The ground of their defence is simple, and I will state it, so that it cannot be misapprehended. They assert, and I shall attempt from the evidence submitted to convince you, that a conspiracy was formed by Mr. Redding, the prosecutor, and various other persons, among whom were the deceased, to inflict personal violence upon them; that the conspirators, by pre-concerted agreement, assembled at the Galt House, in the city of Louisville, and attempted to accomplish their object; and that, in the necessary, proper and legal defence of their lives and persons from such attempt, the defendants caused the deaths of two of the conspirators. After discussing this proposition, I shall submit another, which is, that even though a conspiracy on the part of the deceased and their companions, to inflict personal violence and bodily injury upon the defendants, did not exist; yet the defendants had reasonable ground to suppose the existence of such a conspiracy, and to apprehend great bodily harm therefrom; and that upon such reasonable apprehension they were justified in their action, upon the principle of self-defence, equally as if such conspiracy had in point of fact existed.

The law applicable to these two propositions is simple, being in fact nothing more than a transcript from the law of nature. The principles governing and regulating the right of self-defence are substantially the same in the jurisprudence of all countries—at least all civilized ones. These principles have been read to you from the books, by my learned and excellent friend, Col. Robertson, and require no repetition.

That a man has a right to defend himself from great bodily harm, and to resist a conspiracy to inflict upon him personal violence, if there is

reasonable danger, even to the death of the assailant, will not, I presume, be disputed. That *reasonable, well-grounded* apprehension, arising from the actions of others, of immediate violence and injury, is a good and legal excuse for defensive action, proportionate to the apparent impending violence, and sufficient to prevent it, I take to be equally indisputable.

By these plain rules, and upon these simple principles, let us proceed to test the guilt or innocence of the defendants.

First, then, as to the existence of the conspiracy. Before examining the direct evidence to this point, you will naturally inquire, was there any cause for this alleged conspiracy? Motive always precedes action. Was there any motive for it? If we establish the existence of the seed, we shall feel less hesitation in being convinced of the production of the plant. Was there then any motive on the part of Mr. Redding and his friends for forming a combination to inflict personal violence upon the defendants? In answering this question, it will be necessary to take notice of the evidence which has been given in relation to events that transpired at the shop of Mr. Redding at a period anterior to the transaction at the Galt House, and which, except for the clue they afford to the motive and consequently to the subsequent action of the parties, would have no bearing upon the case before you. You will take heed to remember, that, whatever of impropriety you may consider as attaching to the conduct of Judge Wilkinson and his friends during this part of the affair, must not be permitted to weigh in your verdict, inasmuch as that conduct is the subject of another indictment which is still pending in this court.

Judge Wilkinson visited Louisville for the purpose of making the preparations necessary for the celebration of his nuptials. The other two defendants had also their preparations to make, inasmuch as they were to act as his friends upon this interesting occasion. Doctor Wilkinson, a brother of the Judge, had ordered a suit of clothes of Mr. Redding, who follows the very respectable occupation of tailor, occasionally relieved and interspersed by the more agreeable pursuits of a coffee-house keeper. On the day but one preceding that fixed for the marriage ceremonies, the Doctor, in company with his brother and friend, Murdaugh, proceeded to the shop of Mr. Redding for the purpose of obtain-

ing the wedding garments. Upon trying on the coat it was found ill made and of a most ungraceful fit. It hung loosely about his shoulders, and excited by its awkward construction the criticism and animadversion of his friends. Even the artificer did not presume to defend the work of his own hands; but simply contended that he could re-organize the garment and compel it, by his amending skill, into fair and just proportions. From the evidence, I presume no one will doubt that it was a shocking bad coat. Now, though under ordinary circumstances the aptitude of a garment is not a matter of very vital importance in the economy of life, and ought not to become the subject of controversy, yet all will admit that there are occasions upon which a gentleman may pardonably indulge a somewhat fastidious taste in relation to this matter. Doctor Wilkinson will certainly be excused, considering the attitude in which he stood, for desiring a well made and fashionable coat.

I confess I am not a very good judge in concerns of this sort. I have had no experience on the subject, and my investigations in relation to it, have been exceedingly limited. Under favor, however, and with due deference to the better judgment of the learned counsel on the other side, I give it as my decided opinion, that a gentleman who is about to participate in a marriage ceremony is justified in refusing to wear a coat, which, by its loose construction and superabundant material, indicates, as in the case before us, a manifest want of good husbandry.

Suffice it to say, Doctor Wilkinson and his friends did object to the garment, and Mr. Redding, after some altercation, consented to retain it. The pantaloons, which constituted a part of the suit, had been sent to the Hotel, and the Doctor was in the act of paying for them, out of a \$100 bill, which he had previously deposited with Mr. R., when the Judge remarked that he had better not pay for the pantaloons until he had first tried them on, as they might be found to fit no better than the coat. Mr. Redding, according to his own evidence, responded, that "they had said too much already about the matter," to which the Judge, he says, replied, that he did not come there to be insulted, and immediately seized the poker and struck him; upon which the Doctor and Mr. Murdaugh also fell on him, with their knives drawn. Redding then seized his shears, but did not succeed in

cabbaging therewith any part of his assailants. He was successful, however, in dragging the Judge into the street, where, after a slight scuffle, which resulted in no personal injury to any of the parties, they were separated. After the separation, Redding offered, if they would lay down their knives, to fight them all. This kind proposition the defendants declined; but the Doctor returned into the shop, obtained his \$100 note, and then the defendants retired from the place.

Such in substance is Mr. Redding's own account of the transaction at his shop. The witness Weaver also proves the altercation which occurred in relation to the fit of the coat and the scuffle which ensued in consequence. He, however, avers that Redding, in a very insulting manner, told the Judge that he "was more meddling than the other," and that he "was too d—d meddling," or words to that effect; which insulting language so excited the Judge that he seized the poker and commenced the assault.

The other witness, Craig, Redding's journeyman, testifies in substance the same as Redding, as to what passed in the shop; corroborates his account of the altercation about the coat; and says that he considered Doctor Wilkinson, not as assisting in the affray, but as attempting to separate the parties. Some of the witnesses think that the Doctor attempted, in the street, to stab Redding, as he was getting the advantage of his brother. The evidence on this point, as well as in regard to the conduct of Murdaugh, is somewhat contradictory. In the view, however, which I have taken of the case, the discrepancy is of little importance.

It is clearly proven, take the evidence in any way, that Mr. Redding used insulting language towards Judge Wilkinson, on account of the Judge's expression of an opinion in relation to the fit of his brother's coat. What was the exact language used, it is difficult to ascertain.

There were six persons in the room when the quarrel ensued—on the one side, the prosecutor, (Redding,) his foreman, (Craig,) and the boy, (Weaver;) on the other, the three defendants.

All the evidence on this point has been derived from the first party, and ought, consequently, to be taken with many grains of allowance. The prosecutor has given you his version of the affair, but his cunning has prevented the defendants from giving you theirs. Doctor Wilkinson,

who was discharged by the examining magistrate, has been included in the indictment, one would judge, for the very purpose of precluding his testimony. No one can doubt that the conduct of Judge Wilkinson, however reprehensible, resulted from the abusive language and insulting demeanor of Mr. Redding. The happy facility with which he indulged, on a subsequent occasion, in the use of opprobrious epithets, gives good reason to suppose that his remarks on the present were not very guarded. The expression deposed to by Weaver is, I presume, but a sample. "You are too d—d meddling," was the observation, accompanied, no doubt, by the overbearing and bullying manner which illustrated his conduct afterwards, and which smacked more of his spiritual pursuit, as the Ganymede of a coffee-house, than of his gentle calling as a knight of the shears and thimble. He certainly did, on this occasion, "sink the tailor;" for tailors are proverbially polite and gentlemanly in their department.

I do not wish to be considered as justifying Judge Wilkinson or his friends, in taking notice of the petulant and insolent conduct of Redding. I think they would have better consulted their character and feelings, by treating him with contempt. I will go further, and candidly admit that I consider their course reprehensible; that it resulted from passion and sudden excitement, and not from deliberate determination. They were themselves convinced of this in a moment, and left the ground, ashamed, as they still are, of their participation in the matter—Judge Wilkinson rebuking and leading away his young and more ardent friend, Murdaugh, who seemed to indicate some disposition to accept the boastful challenge of Mr. Redding, "that he could, if they would lay down their knives, whip them all three." From all the evidence, it is perfectly clear that, in the altercation, no personal injury resulted to any of the parties; that the defendants retired voluntarily from the quarrel; while Mr. Redding retained the field, and with boastful taunts and insulting outcries, invited a renewal of the fight. The Mississippians were manifestly satisfied. Not so Mr. Redding: he was "full of wrath and cabbage," boiling over with violence, and breathing defiance and vengeance against the retreating foe. He, doubtless, retired to his coffee-house, and attempted to soothe his wounded feelings with some of the delightful beverages which it

was occasionally his profitable province to dispense to others. Here his friends gathered around him; he recounted to them his manifold grievances; he grew warm in the recital; the two white-handled pocket-knives, which had been drawn but not used in the affray, danced before his distempered imagination, in the shape of trenchant and death-dealing blades. These little instruments, of ordinary and general use, became, at once, bowie knives, "in buckram." He believed, no doubt, and made his friends believe that he was an injured man, and that some satisfaction was due to his insulted honor. I have presented this part of the case to you, simply for the purpose of enabling you to judge of the subsequent action of the parties, and to indicate on which side a desire for vengeance, and a combination to obtain it, were most likely to originate. Upon the conclusion of the first affray, which party would you have suspected of a disposition to renew it? Where could lie the motive on the part of Judge Wilkinson and his friends for additional violence? But who that is acquainted with the workings of human nature, or the indications of human feeling, will hesitate a moment in believing that revenge lurked in the bosom of Redding, and sought only a safe opportunity for development? His conduct indicated a state of mind precisely fitted for the formation of a conspiracy.

Having laid the foundation, I will now proceed to the erection of the superstructure. I will shew, first by the direct and then by the circumstantial proofs, the existence of this foul and cowardly conspiracy. I will, however, here remark, that I doubt not the misrepresentations and falsehoods of Mr. Redding, in relation to the transaction, induced several of the persons implicated to join the combination, who, with a correct knowledge of the facts, would never have participated in the affair.

First, then, as to the direct and positive evidence. Mr. Jackson says, that immediately after the first affray he was passing Mr. Redding's, when his attention was attracted by loud talking in the store, which induced him to enter, where he found Redding, Johnson and Meeks. Johnson was expressing his opinion as to the course which should be pursued towards the Mississippians for their conduct, and said they "ought to go to the Galt House and flog them." "Jack," said he to Mr. Redding, "just say the word, and I'll go for Bill Holmes, and we'll give

them hell;" at the same time boasting, in his own peculiar phraseology, "that he was as much manhood as was ever wrapped up in so much hide." Upon some hesitation being evinced at this proposition, Meeks said, "Let's go any how, and we'll have a spree."

Mr. Jackson further deposes, that some time after he was stopped by Johnson, on the street, who told him he was going after Holmes; that Jack Redding was a good man, and that he, Jackson, ought to go with them to the Galt House and see him righted. Jackson declined, alledging as an excuse his religious character, and his desire to abstain from fighting; whereupon Johnson exclaimed, in his ardent zeal for enlisting recruits, that "church, hell or heaven ought to be laid aside to right a friend." Jackson says he understood it distinctly, that it was a fight to which he was invited.

Mr. Jackson's testimony is entitled to credit. He did not participate in the affair; and he can have no inducement to speak falsely, for all his prejudices must naturally be enlisted on the side of the prosecution. His character is sustained by unexceptionable testimony, and has been impugned by no one except the Salamander gentleman, whose ambition seems to be, to pursue in the next world that occupation which in this is principally monopolized by the descendants of Ham.

The next direct evidence of the conspiracy is from Mr. Deering, whose character and testimony are both unimpeachable. He says he was passing down Market street, on the evening of the affray, when he saw, near the market-house, Johnson, in company with Holmes and others, and that they were discussing the subject of the quarrel between the Mississippians and Redding. This proves that Johnson was carrying into effect his proposition at Redding's store, viz: "to go and get Bill Holmes and give them hell." He had already found Bill Holmes, and, we shall presently see, made all his arrangements for "giving them hell."

Mr. Deering says that soon after he met Mr. Johnson again, who inquired for Mr. Turner, the City Marshal. Mr. Deering told him he would be too late with his officers, for the Mississippians would be gone; to which Mr. Johnson responded, "*there were enough gone there—that if they came down their hides would not hold shucks.*" What did this mean, if it did not indicate that the conspiracy had already

been formed, and a portion of the conspirators assembled at the Galt House, for the purpose of preventing the game from escaping, and holding it at bay, until the arrival of the rest of the hunters. They had gone, it seems, too, in sufficient numbers to authorize the classical boast of Mr. Johnson, "that if they (meaning the Mississippians) came down their hides would 'nt hold shucks."

There is one more witness, whose testimony is positive to the point. It is Mr. Harris. He swears, clearly and unequivocally, that Johnson met him on the evening of the affray, told him that the Mississippians had insulted Mr. Redding, and directly solicited him to go with Redding's friends to the Galt House and see him righted. Mr. Harris says he refused to go, whereupon Johnson exclaimed, "Are you a friend of Redding's?" thereby showing how strong was the feeling when even a mere refusal to participate in the violence was considered as proof that the man refusing was no friend of Redding.

Such, gentlemen, is the positive proof of the conspiracy. It consists of the evidence of three disinterested and honest witnesses, two of whom were directly and strongly solicited to participate in the matter. The testimony of each of these witnesses corroborates that of the other two. The facts sworn to have a natural order and connection. There is a verisimilitude about the whole story, which would not belong to either portion by itself. The testimony is entitled to much more weight than if it had been the recital of a single witness; for if you believe one of the witnesses you must give credit to all. One of them swears that he heard Johnson, in Redding's shop, propose to Redding and his friends that he should get "Bill Holmes" and "give them hell." The next witness saw Johnson on the street immediately after, in company with "Bill Holmes," who seems to have been the Achilles of these Myrmidons; explaining to him how his dear Patroclus, Redding, had been insulted by the hectoring Mississippians, and urging him to vengeance. Again the same witness met Johnson, and was informed by him that a portion of his banditti had already taken possession of the passes of the Galt House, and that if the Mississippians appeared, "their hides would 'nt hold shucks." The third witness swears to a positive solicitation from Johnson, that he should join in the

foray, and to the expression of strong indignation by this slayer of cattle upon his refusal to do so.

Johnson was the "Malise" of the party, "the messenger of blood and brand" sent forth to summon the clansmen true. Too well did he perform his duty. He collected his friends and conducted them like beasts to the slaughter; while he himself found the "manhood," which, according to his boast, distended his hide, rapidly descending to his heels. But enough, for the present, of this vaporing worthy; I shall pay my respects to him hereafter.

I will now proceed, in pursuance of the plan I had prescribed, to shew the existence of the conspiracy, by the circumstantial evidence, which is, if possible, more irrefragable than the direct testimony; but yet most beautifully illustrates and confirms it. I will exhibit to you a chain of facts, linked together by a natural and necessary connection, which I defy even the strong arm of the opposing counsel to break. I will weave a cable upon whose unyielding strength the defence may safely rely to ride out the storm of this furious prosecution.

Mr. Redding went to the Galt House after the affair at his shop, for the purpose, as he avows, of obtaining the names of the Mississippians that he might procure process against them from the civil authorities. On his way, as he confesses, he armed himself with a deadly weapon, which, however, I am bound, in justice to say, he never had the courage to use. A number of individuals accompanied and followed him, whose manner and strange appearance, excited universal attention even in the bar-room of the most frequented hotel in the western country. Their strange faces and strange action excited general apprehension. Nearly every witness, to the unfortunate catastrophe, has deposed that he was struck with the "strange faces" congregated in the bar-room. The learned counsel on the other side, has attempted to prove in the examination, and will, no doubt, insist in the argument, that that room is daily crowded with strangers from every part of the country; that the excellence of the fare, and the urbanity of its proprietors, invite to the Galt House a large portion of the travelling public; and that consequently it is nowise remarkable that strange faces should be observed in the bar-room. Though I admit the gentleman's premises, I deny his conclusion. That strangers

should frequent the Galt House is not wonderful; they do it every day; and for that very reason strange faces, under ordinary circumstances, arouse neither remark nor attention. That the "strange faces" of Mr. Redding's friends should have excited remark and scrutiny, not only from the inmates of the House, but from strangers themselves, is truly wonderful, and can be accounted for only by admitting that there was something very peculiar in their conduct and appearance.

They went there prepared for pre-concerted action. Having a common object, and a well arranged plan, a glance, or a motion, sufficed to convey intelligence from one to the other.—Tell-tale consciousness spoke from each countenance. Their looks, unlike the mystic sign of the mysterious brotherhood, gave up to the observer the very secret they wished thereby to conceal. There is a strange and subtle influence, a kind of mental sense, by which we acquire intimation of men's intentions, even before they have ripened into word or action. It seems, on such occasions, as if information was conveyed to the mind, by a sort of natural animal magnetism, without the intervention of the senses.

Thus, in this case, all the by-standers were impressed, at once, with the conviction that violence was intended by the strange men who had attracted their attention. These men, it is proven, were the friends and intimate companions of Redding. Most of them, though living in the city of Louisville, were not in the habit of going to the Galt House, and yet by singular coincidence had all assembled there on this occasion.

They were remarkably stout men, constituting the very elite of the thewes and muscle of Louisville, and many of them noted for their prowess in the vulgar broils of the city. Why had they thus congregated on this occasion?—Why their strange and suspicious demeanor? I will show you why. It will not be necessary to await the actual fight, to become fully conversant with their purpose. It found vent in various shapes, but chiefly bubbled out in the unguarded remarks and almost involuntary expressions of the more garrulous of the party.

I shall be compelled, even at the risk of being tedious, to glance at the evidence of a number of the witnesses in showing you the circumstan-

ces at the Galt House, which conclusively indicate the existence of the conspiracy.

Mr. Everett, one of the proprietors of the Galt House, says he was admonished by his bar-keeper that a difficulty was about to arise, and he had better persuade Judge Wilkinson out of the bar-room. Accordingly, he went in and took the Judge away, and gives as a reason that he was alarmed at the strange faces in the bar-room, and apprehended difficulty; alarmed, not because the faces were those of strangers, but because of something in their appearance which indicated concert and threatened violence.

Mr. Trabue was waiting in the room for supper, and says he heard some one remark, "if the Mississippians had not gone up stairs, they would have been badly treated;" in connexion with which remark, Redding was pointed out to him. This it seems was after the Judge had retired at the solicitation of Mr. Everett. Now who were to have treated the Mississippians badly, except Mr. Redding and his friends? Who else had any pretence for so doing? Can you doubt for a moment that the remark had reference to Mr. Redding's party? It was probably made by one of them; but whether by one of them, or a stranger, it equally indicated their violent determinations. Mr. Trabue also proves that after Judge Wilkinson retired, Mr. Redding also retired; and when the Judge returned into the bar room, Redding presently entered; followed, to use the language of Mr. Trabue "by a right smart crowd" of his friends. Now why did Redding thus go out, and return with his gang at his heels? Why were his movements thus regulated by the motions of the Judge?—Wherefore was it that every one expected a difficulty?

Mr. Redding, according to his own story, went to the Galt House simply for the purpose of obtaining the names of the gentlemen who had insulted him.

He had accomplished his ostensible object. He had obtained the names, and more than that, had gratified his base appetite by abusing one of the gentlemen in the most indecent and disgusting manner. No rowdy who ever visited his coffee-house could have excelled him in this, to the vulgar mind, sweet mode of vengeance. He had even driven the Judge from the room by the overwhelming torrent of his billingsgate epithets. To use an expression suited to his comprehension and feelings, he remained "cock

of the walk." Yet he was not satisfied. He retired, and watched the return of the Judge, and then emboldened by his previous impunity followed with his cut-throat band to complete the work of vengeance.

But to proceed with the circumstantial evidence. Mr. Montgomery states that he was with Mr. Trabue at the Galt House when Redding came in after the names, and, also, when he came back just before the conflict; heard him use very rough language, and, also, heard Halbert remark that there would be "rough work with the Mississippians." Now this fully corroborates the testimony of Mr. Trabue on the same point, who heard the remark, but did not recollect who made it. This Marshall Halbert is the man who boasted, after the affair was over, that he had knocked down one of the Mississippians with a chair while his back was towards him, and recounted many other feats of daring to the astonishment of the listeners. I should judge him to be of the blood of honest Jack Falstaff, whose killing, as every body knows, was always by word of mouth, and whose deeds of desperate valor were so unfortunate as to find neither historian nor believer except himself. At all events Halbert, according to his own confession, was one of the conspirators, and I have no doubt performed his part in the affray as well as he knew how, and with much greater humanity than he pretends. In addition to the above remark of Halbert's, Mr. Montgomery states that he heard several persons say at a time, when the defendants were not in the room, that they would beat the Mississippians well.

General Chambers, who lives opposite the Galt House, and is in the daily habit of visiting it, says he went into the bar-room just before the affray, that he observed persons whom he was not in the habit of seeing there, and that from their appearance and demeanor, his suspicions were immediately aroused.

I attach great weight to the testimony of Gen. Chambers. His character for intelligence and observation needs no comment from me; and the fact that his suspicions were aroused, must convince every one, that cause for alarm existed.

The next testimony to which I shall refer is that of Mr. Oliver. He says that he was acquainted with Mr. Meeks, and was taking a social glass with him on the evening of the affray,

when Meeks started off, saying he must go to the Galt House, (which was on the opposite side of the street,) that he was bound to have a fight that night, and "by G—d he would have one." You will recollect that Meeks was one of the persons who collected around Redding immediately after the affair at the shop, and seconded Johnson's proposition to get Bill Holmes and "give them h—l," by saying "they would go any how, and have a spree." Can you doubt for a moment, that the observation made by this unfortunate man to Mr. Oliver, as just recited, had relation to the previous arrangement with Johnson and others at Redding's shop? The remark of Meeks seems to me, taken in connexion with his previous and subsequent conduct, almost conclusive of itself as to the existence of a conspiracy. I had almost forgotten to observe Mr. Oliver's statement that Meeks, before he started, tied a knot in the small end of a cowhide which he carried, manifestly to prevent it from slipping out of his hand in the conflict which he so eagerly courted. His knife, by a sort of pious fraud, had been taken from him by Mr. Oliver, otherwise the result might have been very different. The prudent caution of Mr. Oliver in disarming him of this weapon, proves how strong must have been the indications of his violent disposition.

Mr. Reaugh says he was at the Galt House on the evening of the affray, and saw Redding in conversation with Rothwell and Halbert—he also saw Holmes and Johnson. Something in the demeanor of the party induced him to ask Johnson what was the matter. Johnson replied by relating the affair of the shop. Upon which Reaugh observed "if the Mississippians fall into the hands of these men, they will fare rather rough." "Yes," replied the worthy butcher, "they would skin them quicker than I could skin a sheep." Mr. Reaugh states that he made the remark to Johnson because of the remarkable size and strength of the men to whom he alluded; the strange manner in which they had assembled, and the fact that he knew them to be friends of Redding, and that Redding had been in a quarrel with the Mississippians.

Mr. Miller states that being a member of the grand jury, and having heard of the affray at Redding's, he went into a tin shop to enquire about the matter, when Mr. Halbert came in and boasted much of what he intended to do. Witness then went to the Galt House for sup-



per, when he heard Redding abusing Judge Wilkinson, and challenging him for a fight. Witness advised Halbert to take Redding away, observing that he, witness, was on the grand jury, had the names, and would have all the matter attended to. Some one, he thinks Johnson, then remarked that "if he didn't leave the room, he'd see the finest sort of beef-steaks served up." Presently he heard the exclamation, near the counter, "there they are, all three of them," and the crowd immediately closed in upon the persons so indicated.

Mr. Waggy, also, heard the remark about the "steaks," and then heard some one exclaim "we'll have a hell of a fight here just now." He also heard Mr. Miller advise Halbert to take Redding away.

Mr. Brown swears that he heard Mr. Miller tell Mr. Redding he was not taking the proper course; he should have the matter before the grand jury; whereupon some one said "hush you Billy Miller, if it comes to handy-cuffs the boys will settle it." The witness then became so apprehensive of a fight that he left the room.

Now, though Miller is not positive as to the person who made use of the expression about "serving up beef-steaks," yet no one, I take it, will hesitate as to his identity. Who but Johnson could speak in such rich and technical language? Who but Johnson could boast of "having as much manhood as was ever wrapped in the same extent of hide?" While, at the same time, he had so arranged it, that the "hides" of the Mississippians "would not hold shucks." Who but this unmitigated savage would talk of "skinning" a gentleman "quicker than I could skin a sheep?" Why he rubs his hands, licks his lips, and talks of serving up christians in the shape of "steaks," with as little compunction as you or I would exhibit in eating a raddish. The cannibal! He should go, at once, to New Zealand and open his shambles there. His character would suit that country; and I doubt not he would obtain great custom, and find ample demand for his human "steaks." Why, gentlemen, I should be afraid to buy meat out of his stall. He talks as if he supplied it by burking. I should expect some day to swallow an unbaptized infant in the disguise of a reeking pig, or to eat a fellow-citizen, in cog, in a "steak." Such a fellow should be looked to. But again. What meant the expression deposed to by Reaugh, "there they are, all three of them

now?" It was the signal for the conspirators to close in. It clearly proves a pre-concerted plan; no names were mentioned, and without a previous understanding, the expression would have been nonsense. Most of the party did not know the Mississippians; hence it was necessary that some one should give intimation when they entered the room. The expression "There they are," was the signal for the onset. What meant the expression, sworn to by Waggy, "We'll have a hell of a fight here just now?"

What conclusion do you draw from the response made to Miller, when he advised Redding to bring the matter before the grand jury, "Hush you, Billy Miller, and if it comes to handy-cuffs the boys will settle it?" If what comes to handy-cuffs? And who were the boys? Why, if the quarrel with the Mississippians comes to handy-cuffs; and as for the "boys," there was not a man present who did not know who they were.

Redding was one of the "boys," and a very bad boy too. Billy Holmes was another; Marshall Halbert was a perfect "broth of a boy," and if his own story is entitled to credit, he must have been twins, for he acted the part of at least two in the fight. Bill Johnson was as much of a boy as ever was "wrapped up in the same amount of hide," though his extraordinary modesty has induced him to deny the soft impeachment. The unfortunate Meeks and Rothwell were two of the "boys;" and last though not least, comes Harry Oldham, the "Jack Horner" of the party. He "sat in the corner" till the fight was nearly over, when he "put in his thumb" and "pulled out," not "a plum," but a pistol; and ever since, has been exclaiming, "What a brave "boy" am I."

Yes, gentlemen of the jury, these were the "boys," whose strange appearance aroused the suspicions and excited the apprehensions of all.

Permit me, now, to call your attention to the testimony of Mr. Donahue. It is clear and conclusive. He swears that on the evening of the affray, and just before it occurred, being in the bar-room of the Galt House, he heard Rothwell ask Redding "if they were there;" upon being answered in the negative, he exclaimed "come, let us go up stairs and bring them down, and give them hell." Rothwell, was the brother-in-law of Redding, had been informed by Redding of his grievances, and had accompanied him to the Galt House. Whom did he mean, when he asked if "they were there?" The Mississippians undoubtedly. Whom did he propose to

drag from their rooms, and chastize? Of course the same persons for whom he had just enquired. Rothwell asked "if they were there;" when the defendants came in, some one cried out "there they are, all three of them." These two expressions manifestly emanated from persons who understood each other, and were engaged in pursuit of a common object.

If these remarks had not relation to some previously concerted plan of action, they would be unmeaning and foolish; but granting the existence of the conspiracy I have supposed, and every word is pregnant with meaning; full of force, weight and effect.

Mr. Raily deposes to the caution given by Miller to Redding; also to the fact that Redding left the room when Judge Wilkinson had retired, and came back again immediately after the Judge had returned. He also saw Oldham after the affair was over, putting a pistol into his pocket, and wiping, with his handkerchief, the blood from a double edged dirk.

Mr. Pearson says he went to the Galt House just before supper, on the evening of the affray. As he stood behind the bar, one Capt. Rogers observed that there would be a fight. Presently, witness met Marshall Halbert, and told him he ought to stop it, meaning the fight. Halbert said "no, let it go on." This was before Redding had commenced abusing Judge Wilkinson, and proves that the idea of a fight did not originate from that circumstance. The Judge came, and Redding abused him. He went out, and Redding followed. He returned, and presently so did Redding with a crowd at his heels. Seeing the crowd, and apprehending violence, Mr. Pearson was in the act of leading the Judge out of the room, when the crowd rushed upon Murdaugh; the affray commenced, and the Judge stopped, refusing to leave the room until he saw his friends out of the difficulty. Need I ask you whether he was right in so doing?

Mr. Banks says he saw Redding just after the first affray, and asked him if he was hurt. He said no, but that "he would have satisfaction," and that "he could whip them all three."

Dr. Graham says that after Judge Wilkinson had left the bar-room, the first time, he heard some one observe, "the d—d coward has run."

Does not Mr. Oldham's testimony prove the conspiracy? I do not mean directly, but circumstantially. He says he was not present at the fight in the bar-room, and knew nothing of the

affair, nor of the defendants. He says he was standing in the passage when the door opened, and he received a cut from Dr. Wilkinson, whom he knocked down for his pains.

After fighting in the crowd awhile, he saw Murdaugh retreating up stairs, and asking for a pistol, whereupon he was reminded of his own pistol, which he immediately drew and discharged at the young gentleman, giving him not the weapon, but its contents, to-wit, a bullet, split in three pieces. This worthy gentleman, who is certainly

"as mild a mannered man  
As ever scuttled ship, or cut a throat,"

swears positively that he did not know either of the defendants; that he belonged to neither party in the affray; and that he fought, to use his own descriptive and unrivalled phraseology, entirely "upon his own hook."

Surely Mr. Henry Oldham must be the knight errant of the age; the Don Quixote of the west; the paragon of modern chivalry.

He fights, not from base desire of vengeance, nor from sordid love of gold; not even from patriotism or friendship; but from a higher and a loftier sentiment; from his pure, ardent, disinterested, unsophisticated love of glorious strife.— Like Job's war-horse, he "smelleth the battle afar off," and to the sound of the trumpet, he saith ha! ha! To him

"There is something of pride in the perilous hour,  
What'er be the shape in which death may lower,  
For fame is there, to tell who bleeds,  
And honor's eye on daring deeds."

You have heard, gentlemen, of the bright, warm isles which gem the oriental seas, and are kissed by the fiery sun of the tropics; where the clove, the cinnamon, and the nutmeg grow; where the torrid atmosphere is oppressed with a delicious, but fierce and intoxicating influence. There the spirit of man partakes of the same spicy qualities which distinguish the productions of the soil. Even as the rinds of their fruits split open with nature's rich excess, so do the human passions burst forth with an overwhelming violence and prodigality unknown till now, in our cold, ungentle clime.— There, in the islands of Java, Sumatra, the Malaccas, and others of the same latitude, cases similar to that of Mr. Henry Oldham are of frequent occurrence. In those countries it is called "running a muck." An individual becomes so full of fight that he can no longer

contain it; accordingly, he arms himself with a species of dagger, very similar to that from which Mr. Oldham wiped the blood with his pocket handkerchief, and rushing into the public streets, wounds and slays indiscriminately among the crowd. It is true, that this gallant exploit always results in the death of the person performing it; the people of the country, entertaining a foolish notion that it is too dangerous and expensive a mode of cultivating national bravery. But in the present instance, I trust this rule will be relaxed. Mr. Oldham is the only specimen we possess of this peculiar habit of the spice-island, and he should be preserved as a curiosity.

But, alas! the age of chivalry has gone by; and in the performance of my duty I fear I shall have to exhibit some little defects in the character of Mr. Oldham, calculated in this censorious day to detract from his general merits.

It is with great pain, I feel constrained to say, (for he is a sort of favorite of mine,) that telling the truth is not one of his knightly accomplishments, and that his heroic conduct in the affray at the Galt House was nothing more nor less, according to his own story, than a downright cowardly attempt at assassination.

First, as to his veracity. He says that he was cut, in the passage, by Doctor Wilkinson, to whose identity he swears positively; yet it is proven, by half a dozen unimpeachable witnesses, that the Doctor was at that time, *hors du combat*, beaten to a mummy—almost lifeless, and perfectly limber—while his knife had fallen from his relaxed and nerveless grasp, upon the floor of the bar-room, where it was afterwards picked up.

Yet Oldham swears, manfully, that it was the Doctor who cut him, though when asked if his face was not bloody, he replied that the passage was too dark to enable him to distinguish faces. If he could not see whether the face of the person who cut him was bruised or bloody, how dare he swear it was Doctor Wilkinson, whom he admits he had never seen before?

Yet, though his vision was so dull in regard to this matter, it was almost supernaturally keen upon another. He swears that he was cut by a dirk knife, with a "white handle." Now in this dusky passage, where he could not see his assailant's face, how could he distinguish so accurately the character of the weapon, and

more especially, of the handle. The handle of such a knife as either of those exhibited would be entirely concealed in the grasp of the holder. But Mr. Oldham could see through the hand, and swear to the color of the handle, even when he could not distinguish the color of the assailant's face.

The prosecution seems to be afflicted with a monomania on the subject of white-handled knives. The white-handles cause them greater terror, and excite more of their observation, than the blades. One would almost be led to suppose, from the evidence, that the defendants held by the blades and fought with the handles. These white handles flash before their eyes like the bright inscription upon the dim steel of a Turkish cimeter. I hope, though with many misgivings, that none of them will ever die of a "white handle."

But, to return to my subject, why in the name of all that is human or humane, did Oldham shoot at Murdaugh, whom he acknowledges he did not know; of whose connexion with Doctor Wilkinson he was unacquainted; and who had not attempted to do him the slightest injury? According to his own account of the matter, he acted the part of a base and cowardly assassin. If he tells the truth, he is an assassinating villain: if he does not, he is a perjured villain. I leave him choice of these two horns of the dilemma, though I doubt not the latter is the one upon which he is destined to hang. I cannot believe in the existence of such a monster as he would make himself out to be; and have offered his conduct to you as evidence of the existence of a conspiracy, and of his participation in it. It is better that he should have the excuse of having fought in Redding's quarrel than no excuse at all.

Gentlemen of the Jury—I have now performed that portion of my task which embraced the circumstantial evidence. Out of the mouths of fifteen different witnesses, most of them gentlemen of high character and undoubted veracity, I have exhibited to you an almost countless variety of circumstances, the occurrence of which, or of any great portion of them, is absolutely incompatible with any other hypothesis than that of the existence of the conspiracy, which I proposed at the outset to prove.

Upon that hypothesis all these circumstances are easily explicable, and in perfect accordance with the ordinary principles of human action.

I have combined the scattered strands of evidence; I have finished the cable which I promised; and now challenge the opposing counsel to try their strength upon it. They may pick it into oakum; but I defy them to break it.

There is one other argument in favor of the view that I have taken of the origin of this unfortunate affray, which may be properly introduced at this time, and with which I shall close this branch of the subject.

It arises out of the respective characters and positions in life of the two parties, and is, in my opinion, entitled to great weight. Who, judging of character and situation, was most likely to have sought and provoked the unfortunate conflict—Judge Wilkinson or Mr. Redding? The conduct of the Judge, under the opprobrious epithets heaped upon him by Redding, in the bar-room, sufficiently indicates, that though he had previously given way to sudden passion, he was now cool, collected and forbearing. His mind had recovered its balance, and he behaved on this occasion, as well as subsequently, with philosophical calmness. I doubt, gentlemen, whether any of you would have permitted Mr. Redding to have indulged, with impunity, in such unmeasured abuse. But the situation of the Judge was peculiar, and every inducement which could operate upon a gentleman warned him against participation in broils and battles. With buoyant feelings and pulse-quickening anticipations he had come more than a thousand miles, upon a pilgrimage to the shrine of beauty, and not of blood; upon an errand of love, and not of strife. He came to transplant one of Kentucky's fairest flowers to the warm gardens of the sunny South; there to bloom in beauty and in brightness.

The marriage feast was spread; the bridal wreath was woven; and many bounding hearts and sparkling eyes chided the lagging hours. The thoughts of the bridegroom dwelt not upon the ignoble controversy, which, for an unguarded moment, had occupied his attention, but upon the bright and glorious future, whose rapturous visions were about to become enchanting realities.

Under such circumstances, Judge Wilkinson could not have desired the conflict. Had the fires of hell blazed in his bosom, they must have been quenched for a while. The very fiend of discord would have been ashamed, fresh from a voluntary, vulgar, bloody quarrel, and reeking

with its unsightly memorials, to have sought the gay wedding banquet.

You cannot believe he coveted or courted the unfortunate affray, without, at the same time, considering him destitute, not only of all sentiment of delicacy and refinement, but of every characteristic of a man. Does his previous character warrant such a conclusion? He has, as has been shown to you in evidence, ever entertained the character of an honorable and upright gentleman. I see, by the sneer upon the lip of the adverse counsel, that the term grates harshly upon his sensibilities. But, I repeat it, Judge Wilkinson has ever entertained the character of a gentleman; a character directly at war with the supposition that his conduct on this occasion resulted otherwise than from necessity. I mean, by "a gentleman," not the broadcloth, but the man; one who is above doing a mean, a cowardly or a dishonest action, whatever may be the temptation; one who forms his own standard of right and will not swerve from it; who regards the opinions of the world much, but his own self-respect more. Such men are confined to no particular class of society, though, I fear, they do not abound in any. I will save the learned counsel the trouble of translating his sneer into language, by admitting that they are to be found as readily among mechanics as elsewhere.

Such a man I believe Judge Wilkinson to be. Such has ever been his character, and he is entitled to the benefit of it on this occasion. It ought to have, and I know will have very great weight with you. Good character always has been, and ever should be, a wall of strength around its possessor, a seven-fold shield to him who bears it.

This is one of the advantages which virtue has over vice—honorable over dishonorable conduct—an advantage which it is the very highest interest of society to cherish and enforce. In proportion to the excellence of a man's character, is, and ever ought to be the violence of the presumption that he has been guilty of crime. I appeal, then, to Judge Wilkinson's character, to prove that he could not have desired this unfortunate controversy; that it is impossible he should have been guilty, under the circumstances which then surrounded him, of the crime of wilful and malicious murder. What, on the other hand, was the condition of the conspirators? Redding had been going about from street

to street, like Peter the hermit, preaching up a crusade against the Mississippians. Johnson, like Tecumseh—but no, I will not assimilate him to that noble warrior—like an Indian runner, was threading each path in the city, inciting his tribe to dig up the tomahawk and drive it, not into the scalps, but the “steaks” of the foe. But I will not pursue this point at greater length.

I proposed, after arguing the position that there actually was a conspiracy to chastise the defendants, and inflict upon them great bodily harm, to shew, in the next place, that the defendants had good reason to believe such a conspiracy existed, whether in point of fact it did or not. Most of the arguments bearing upon this proposition have been already advanced in support of the other. These I will not repeat. There are one or two others worthy of notice. What could Judge Wilkinson have supposed from the conduct of Redding, but that he sought and provoked a difficulty? What else could he conclude from the unmitigated abuse which was heaped upon him, from the opening of the very sluices of vulgarity? That the Judge apprehended violence is evident from the warning which he gave. He told Redding that he might say what he pleased, but not to lay his hands upon him; if he did, he would kill him. He could not be supposed to know that Redding came only for the names. When Meeks stepped up to Murdaugh and struck him with his clubbed whip, while the crowd closed in around, what could Murdaugh reasonably expect but violence and bodily harm, resulting from preconcerted arrangement? Without going at length into an argument on this point, I take it for granted, no one will deny that the defendants had ample grounds for apprehending the existence, on the part of Mr. Redding and his friends, of a conspiracy, to commit upon them personal violence.

Let us now look a moment at the conduct of the defendants, at the Galt House, and see whether it transcended the bounds of right, reason or prudence. When Murdaugh and the Doctor entered the room, the exclamation was made, by some one, loud enough for all to hear, “There they are—all three of them, now;” upon which, according to nearly all the witnesses, Mr. Redding made the remark to Murdaugh, “You are the man that drew the bowie knife on me.” You will recollect Redding had just crossed Judge Wilkinson’s path, and placed

himself with his back against the counter, manifestly with the object of bringing on the fight. Murdaugh, indignant at being publicly charged with having drawn a bowie knife upon an unarmed man, replied, “that any one who said he had drawn a bowie knife told a d—d lie;” whereupon instantly steps up Meeks, with his knotted cowhide, exclaiming, “You are the d—d little rascal that did it,” at the same time inflicting upon him a very severe blow. By the bye, this assertion of Meeks proves that he had been at Redding’s after the first affray, and heard a full account of it. It is urged against the Judge, that when Mr. Everett led him to his room, he asked for pistols. I think an argument may be drawn from this circumstance in his favor. His requisition for arms proves that he considered himself and his friends in great personal danger. He manifestly required them not for offence, but for defence. Had he intended an attack, he would not have gone down to the bar-room without first obtaining the weapons he desired. Men do not voluntarily attempt the lives of others without being well prepared. It is evident that Judge Wilkinson and his friends thought only of the protection of their own persons; for they went down stairs provided only with the ordinary weapons which they were accustomed to bear. Murdaugh and the Doctor had a pocket knife each; the same they had previously carried. They had added nothing to their armor, either offensive or defensive. The Judge, apprehensive of difficulty, had taken his bowie knife, which, probably, he had not previously worn. When, at the solicitation of Mr. Everett, he retired, he doubtless informed his friends of what had just transpired in the bar-room, and expressed his fears of violence. This accounts for the readiness with which Murdaugh met the assault of the two powerful men who simultaneously rushed upon him.

The evidence is conclusive that Meeks commenced the attack, upon Murdaugh, by two rapid, violent blows of a cow-hide; accompanied by a heavy blow from a stick or cane from the hands of Rothwell. At the same time he seized the hand of Murdaugh, in which, prepared for defence, was an open knife; but Murdaugh, with coolness and celerity, changed the weapon to his left hand, and used it according to the dictates both of law and common sense. The very first blow had driven him to the wall. The crowd closed around him: he could not retreat,

and was justified, according to the strictest and most technical principles of even English jurisprudence, to take the life of the assailant. No man but a fool or a coward could have acted otherwise than he did. Was he not, according to the rule read by the District Attorney, in imminent danger of his life or of great bodily harm? Let the unhealed wound upon his head respond. Let his hat, which has been exhibited to you, answer the question. Upon this you may perceive two incisions, which must have been caused by a sharp, cutting instrument. No obtuse weapon was capable of the effect. The blows were manifestly sufficient to have caused death, but for the intervention of the elastic material, upon which their principal force was expended. The part, then, taken by Murdaugh in the affray was clearly defensive and justifiable. It is not pretended that Doctor Wilkinson took any other part in the affray than attempting to escape from its violence, unless you notice the evidence of Oldham, that he cut him as he fled from the room. He was beaten, first by Rothwell, then by Holmes, and if you take their own statements, by those two worthies, Halbert and Oldham. He was crushed almost to atoms. He had not a chance even for self-defence. Rothwell had left Murdaugh, after striking him one blow, in charge of Meeks, and fell upon the Doctor. While beating the Doctor, he was stabbed by the Judge, near the dining room door. The Doctor fled round the room, still followed by Rothwell, who was again struck by the Judge, when upon the opposite side. The two blows paralyzed his powers; when Holmes stepped in and so completely prostrated the Doctor, that he was compelled to hold him up with one hand while he beat him with the other.

Neither offensive word nor action, upon this occasion, on the part of Doctor Wilkinson, is proven or pretended. It is perfectly clear that he was beaten by Redding's friends, simply because he was of the Mississippi party. I consider it highly disgraceful to the Grand Jury who found the bill, that he was included in it.

In reference to the part taken by Judge Wilkinson. It is proven beyond contradiction, by Mr. Pearson, a gentleman of undoubted veracity, that the Judge, at his solicitation, was in the act of leaving the room, as the affray commenced; when, witnessing the attack upon Murdaugh, he stopped, refusing to leave until he

saw the result of the controversy, in which his friend was engaged. Standing in the corner of the room, he did not at first take part in the conflict; perceiving, doubtless, that Murdaugh was making good his own defence. Presently, however, he cast his eyes around and saw his brother trodden under foot, entirely powerless, and apparently either dead or in immediate danger from the fierce blows of Rothwell, who, as you have heard, was a man of tremendous physical power, and armed with a bludgeon, some say, a sword cane. Then it was he thought it necessary to act; and advancing through the crowd to the spot, he wounded the assailant, who was crushing out his brother's life. Gen. Chambers swears positively that Rothwell was beating, with a stick, and with great severity, some one, whom the other witnesses identify as the Doctor, at the time he was stabbed near the dining room door. This produced a slight diversion in the Doctor's favor, who availed himself of it, by retreating, in a stooping posture, towards the passage door. Rothwell, however, pursued and beat him down, but was arrested in his violence by another blow from Judge Wilkinson, which, together with the puncture in his throat, received in all probability from a chance thrust of the sword cane in the hands of one of his own party, disabled him and caused his death. About this time Holmes was completing Rothwell's unfinished work, and the Doctor, hunted entirely around the room, fell, utterly exhausted, at the feet of his relentless pursuers. It is wonderful that he had strength enough to escape with Murdaugh and the Judge.

Such, briefly, were the parts enacted by these defendants, respectively, in this unfortunate affray—the result of which, none regret more than themselves. Considering the proof of the conspiracy, and the knowledge, or even the reasonable apprehension on the part of the defendants, of its existence, as affording them ample justification for their participation in the matter, I have not thought it necessary to go into a minute analysis of the evidence on this branch of the subject, nor to attempt to reconcile those slight discrepancies which will always occur in the testimony of the most veracious witnesses, in giving an account of a transaction viewed from different positions and at different periods of time.

The law of self-defence has always had and ought to have a more liberal construction in this

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country than in England. Men claim more of personal independence here; of course they have more to defend. They claim more freedom and license in their actions towards each other, consequently there is greater reason for apprehending personal attack from an enemy. In this country men retain in their own hands a larger portion of their personal rights than in any other; and one will be authorized to presume an intention to exercise and enforce them, upon grounds that, in other countries, would not excite the slightest suspicion. It is the apprehension of impending harm, and not its actual existence, which constitutes the justification for defensive action. If mine enemy point at me an unloaded pistol or a wooden gun, in a manner calculated to excite in my mind apprehensions of immediate, great bodily harm, I am justifiable in taking his life, though it turn out afterwards that I was in no actual danger.

So, on the other hand, if I take the life of another, without being aware of any intended violence on his part, it will constitute no excuse for me to prove that he intended an attack upon me.

The apprehension must be reasonable, and its reasonableness may depend upon a variety of circumstances—of time, place and manner, as well as of character. The same appearance of danger would authorize greater apprehension, and of course readier defensive action, at night than in the day time. An attack upon one in his own house would indicate greater violence, and excuse stronger opposing action, than an attack in the street.

Indications of violence from an individual of known desperate and dangerous character will justify defensive and preventive action, which would be inexcusable towards a notorious coward. A stranger may reasonably indulge from the appearance or threats of a mob, apprehensions that would be unpardonable in a citizen surrounded by his friends and neighbors.

Bearing these observations in mind, let us look at the situation of the defendants. They were attacked at their Hotel, which, for the time being, was their house. They were strangers, and a fierce mob had gathered around them, indicating, both by word and deed, the most violent intentions. They were three, small, weak men, without friends—for even the proprietor of the house, who should have protected them, had become alarmed, and left them to

their fate. Their enemies were, comparatively, giants—dangerous in appearance and desperate in action. Was there not ample ground for the most fearful apprehensions?

But the District Attorney says they are not entitled to the benefit of the law of self-defence, because they came down to supper, and thus placed themselves, voluntarily, within reach of the danger. According to his view of the case, they should have remained in their chamber, in a state of siege, without the right to sally forth, even for provisions; while the enemy, cutting off their supplies, would, doubtless, soon have starved them into a surrender. But it seems there was a private entrance to the supper table, and they should have skulked in through that; no one but a craven coward, unworthy of the privileges of a man, would have followed such a course. The ordinary entrance to supper was through the bar-room. They had a right to pass this way: no law forbade it.—Every principle of independence and self-respect prompted it. And through that bar-room I would have gone, as they did, though the floor had been fresh sown with the fabled dragon's teeth and bristling with its crop of armed men.

I care not whether the assailing party had deadly weapons or not; though I will by and by shew they had, and used them too. But the true question is, whether the defendants had not good reason for believing them armed and every way prepared for a desperate conflict. I have shewn already that Doctor Wilkinson and Murdaugh did not transcend the most technical principle laid down by the commonwealth's attorney; not even that which requires a man to run to the wall before he can be permitted to defend himself—a principle, which, in practice, is exploded in England, and never did obtain in this country at all. But, says the learned attorney, Judge Wilkinson interfered, and took part, before he was himself attacked: he had no right to anticipate the attack upon himself: he had no right to defend his friend; he had no right to protect his brother's life. Now I differ from the worthy counsel on all these points: I think he had a right to prevent, by anticipating it, violence upon his person: he had a right to defend his friend, and it was his sacred duty to protect his brother's life.

Judge Wilkinson was the most obnoxious of the party; his friends were already overpowered; he could not expect to escape; and in a mo-

ment the whole force of the bandit gang would have been turned upon him.

The principles of self-defence, which pervade all animated nature, and act towards life the same part that is performed by the external mechanism of the eye towards the delicate sense of vision, affording it, on the approach of danger, at the same time, warning and protection, do not require that action shall be withheld till it can be of no avail. When the rattlesnake gives warning of his fatal purpose, the wary traveller waits not for the poisonous blow, but plants upon his head his armed heel, and crushes out, at once, "his venom and his strength." When the hunter hears the rustling in the jungle, and beholds the large green eyes of the spotted tiger glaring upon him, he waits not for the deadly spring, but sends at once through the brain of his crouching enemy the swift and leaden death.

—If war was declared against your country by an insulting foe, would you wait till your sleeping cities were wakened by the terrible music of the bursting bomb? till your green fields were trampled by the hoofs of the invader and made red with the blood of your brethren? No! you would send forth fleets and armies—you would unloose upon the broad ocean your keen falcons—and the thunder of your guns would arouse stern echoes along the hostile coast. Yet this would be but national defence, and authorized by the same great principle of self-protection, which applies no less to individuals than to nations.

But Judge Wilkinson had no right to interfere in defence of his brother; so says the commonwealth's attorney. Go, gentlemen, and ask your mothers and sisters whether that be law. I refer you to no musty tomes, but to the living volumes of nature. What! a man not permitted to defend his brother against conspirators? against assassins, who are crushing out the very life of their bruised and powerless victim? Why, he who would shape his conduct by such a principle does not deserve to have a brother or a friend. To fight for self is but the result of an honest instinct, which we have in common with the brutes.

To defend those who are dear to us, is the highest exercise of the principle of self-defence. It nourishes all the noblest, social qualities, and constitutes the germ of patriotism itself.

Why is the step of the Kentuckian free as that of the bounding deer; firm, manly, and

confident as that of the McGregor when his foot was on the heather of his native hills, and his eye on the peak of Ben Lomond? It is because he feels independent and proud; independent in the knowledge of his rights, and proud in the generous consciousness of ability and courage to defend them, not only in his own person, but in the persons of those who are dear to him.

It was not the blood that would desert a brother or a friend, which swelled the hearts of your fathers in the "olden time," when, in defence of those they loved, they sought the red savage through all the fastnesses of his native forest. It was not such blood that was poured out, free as a gushing torrent, upon the dark banks of the melancholy Raisin, when all Kentucky manned her warrior sires. They were as bold and true as ever fought beneath a plume. The Ronesvalles pass, when fell before the opposing lance the harnessed chivalry of Spain, looked not upon a braver or a better band.

Kentucky has no law which precludes a man from defending himself, his brother, or his friend. Better for Judge Wilkinson had he never been born, than that he should have failed in his duty on this occasion. Had he acted otherwise than he did, he would have been ruined in his own estimation, and blasted in the opinions of the world. And young Murdaugh, too; he has a mother, who is looking even now from her window, anxiously watching for her son's return—but better, both for her and him, that he should have been borne a bloody corse to her arms, than that he should have carried to her, unavenged, the degrading marks of the accursed whip.

But there was danger, as well as degradation. Their lives were in imminent hazard. Look at the cuts in Murdaugh's hat and upon his head, the stab received by the Judge, and the wound inflicted upon the Doctor. Besides the overwhelming superiority in number and strength, the conspirators had very greatly the advantage in weapons. We have proven the exhibition and use, by them, of knives, dirks, a sword cane, and a pistol, without counting the bludgeons, which, in the hands of such men, are weapons little less deadly than the others.

Need I dwell longer upon this point? Need I say that the defendants are no murderers? that they acted in self-defence, and took life from necessity, not from malice?

But there is a murderer—and, strange to say, his name appears upon the indictment, not as

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criminal, but as prosecutor. His garments are wet with the blood of those upon whose deaths you hold this solemn inquest. Yonder he sits, allaying for a moment the hunger of that fierce vulture, conscience, by casting before it the food of pretended regret, and false, but apparent eagerness for justice. He hopes to appease the manes of his slaughtered victims—victims to his falsehood and treachery—by sacrificing upon their graves a hecatomb of innocent men. By base misrepresentations of the conduct of the defendants, he induced his imprudent friends to attempt a vindication of his pretended wrongs, by violence and bloodshed. His clansmen gathered at his call, and followed him for vengeance; but when the fight began, and the keen weapons clashed in the sharp conflict—where was this wordy warrior?—Aye, “Where was Roderick then?” No “blast upon his bugle horn” encouraged his companions as they were laying down their lives in his quarrel: no gleam of his dagger indicated a desire to avenge their fall—with treacherous cowardice he left them to their fate; and all his vaunted courage ended in ignominious flight.

Sad and gloomy is the path that lies before him. You will in a few moments dash, untasted, from his lips the sweet cup of revenge; to quaff whose intoxicating contents he has paid a price that would have purchased the goblet of the Egyptian queen. I behold gathering around him, thick and fast, dark and corroding cares. That face, which looks so ruddy, and even now is flushed with shame and conscious guilt, will from this day grow pale, until the craven blood shall refuse to visit his haggard cheek. In his broken and distorted sleep, his dreams will be more fearful than those of the “false, perjured Clarence;” and around his waking pillow, in the deep hour of night, will flit the ghosts of Rothwell and of Meeks, shrieking their curses in his shrinking ear.

Upon his head rests not only all the blood shed in this unfortunate strife, but also the soul-killing crime of perjury; for, surely as he lives, did the words of craft and falsehood fall from his lips, ere they were hardly loosened from the Holy volume. But I dismiss him, and do consign him to the furies—trusting, in all charity, that the terrible punishment he must suffer from the scorpion-lash of a guilty conscience will be considered in his last account.

Johnson and Oldham, too, are murderers at

heart. But I shall make to them no appeal. There is no chord in their bosoms which can render back music to the touch of feeling. They have both perjured themselves. The former cut up the truth as coolly as if he had been carving meat in his own stall. The latter, on the contrary, was no longer the bold and hot-blooded knight; but the shrinking, pale-faced witness. Cowering beneath your stern and indignant gaze, marked you not how “his coward lip did from its color fly;” and how his quailing eye sought from floor to rafter protection from each honest glance.

It seems to me that the finger of Providence is visible in the protection of the defendants. Had this affair occurred at Mr. Redding’s Coffee House, instead of the Galt House, nothing could have saved them. Their lives would have been sworn away, without remorse, by Redding and his gang. All that saved them from sacrifice was the accidental presence of gentlemen, whose testimony cannot be doubted, and who have given an honest and true account of the transaction.

Gentlemen of the Jury:—I shall detain you no longer. It was, in fact, a matter of supererogation for me to address you at all, after the lucid and powerful exposition of the case, which has been given by my respected friend, Col. Robertson. It was doubly so, when it is considered that I am to be succeeded by a gentleman, (Judge Rowan,) who, better, perhaps, than any other man living, can give you, in his profound learning and experience, a just interpretation of the laws of your state; and in his own person, a noble illustration of that proud and generous character which is a part of the birthright of a Kentuckian.

It is true, I had hoped, when the evidence was closed, that the commonwealth’s attorney might have found it in accordance with his duty and his feelings to have entered, at once, a *nolle prosequi*. Could the genius of “Old Kentucky” have spoken, such would have been her mandate. Blushing with shame at the inhospitable conduct of a portion of her sons, she would have hastened to make reparation.

Gentlemen—Let her sentiments be spoken by you. Let your verdict take character from the noble state which you in part represent. Without leaving your box, announce to the world that here the defence of one’s own person is no crime; and the protection of a brother’s life is

the subject of approbation, rather than of punishment.

Gentlemen of the Jury—I return you my most profound and sincere thanks for the kindness with which you have listened to me, a stranger, pleading the cause of strangers.

Your generous and indulgent treatment I shall ever remember with the most grateful emotions.

In full confidence that you, by your sense of humanity and justice, will supply the many defects in my feeble advocacy, I now resign into your hands the fate of my clients. As you shall do unto them, so, under like circumstances, may it be done unto you.

Mr. Prentiss during the delivery of his address had been repeatedly interrupted by bursts of applause from the assembled auditory; and when he sat down was greeted with irrepressible cheers. In a few minutes after order had been restored, Mr. Thompson rose and addressed the Court and Jury as follows:—

May it please the Court—Gentlemen of the Jury, I know you are already wearied by the lengthened protraction of this cause. I am also aware of the high and great claims and unqualified ability of the gentleman, [Mr. Prentiss,] who has preceded me. By retracing, I cannot hope to strengthen the positions assumed by him; and so well has he swept the field, but little remains for a gleaner. The mature experience, the distinguished and well deserved reputation of the gentleman, [Mr. Rowan,] who will conclude the defence, also admonish me of the propriety of taxing your patience as lightly, as is consistent with a succinct statement of the law, and brief commentary upon the evidence in the cause.

When all that has been alledged against the defendants, in argument, has been so ably answered, I assure you, nothing but a sense of duty, and a compliance with the wishes of the accused, would induce me to address you. The defendants come before you, gentlemen, not as in ordinary cases. Among the wise provisions and wholesome customs of the common law, it was ordained, that the triers should be of the *visne* or neighborhood. Jurors, thus selected, were presumed, from their acquaintance with the parties, and their knowledge of character, to be better prepared to adjudicate justly upon those arraigned for a violation of the laws. Where the offence was committed, and *there* only, could the party be tried. His character and reputation might shield him from suspicion and prejudice—the whole tenor of his life—the uniform purity of his conduct, would

often of themselves, among his neighbors and acquaintances, refute any imputation of crime.

The trial by compurgation is not now known to our laws; but the testimony of an upright life, and an unblemished character, is a more convincing, and less suspicious proof of innocence, than the compurgational oath of friends, too partial perhaps, and too confiding. The moral force of that good name, and the countenance of those steadfast friends, which would encircle and protect the defendants at home, they have not here. But, gentlemen, they are not only strangers, far from home, and from friends, they are also arraigned, and upon trial before you, not of the *visne* or county, where the offence is alledged to have been committed: By a change of venue, this cause has been translated to another county, because, where the offence was committed, the defendants have been driven from the temple of justice by prejudices unwarranted by the facts, fomented by the newspapers, and sedulously circulated and impressed upon the public mind by those who originated, and upon whose skirts rests the blood of the unfortunate catastrophe, in the tragic events of which the accused are implicated.

The defendants, Dr. Wilkinson, Murdaugh and Judge Wilkinson, are now put upon their trial upon two distinct and separate indictments. The first charges Judge Wilkinson with the murder of John Rothwell, and charges Dr. Wilkinson and Murdaugh, as principals in the first degree, as being present, aiding, abetting and assisting him in the murder. The second, charges Murdaugh with being guilty of the murder of Alexander Meek, and charges Judge Wilkinson and Dr. Wilkinson as principals in the first degree, present, aiding, assisting and abetting him in the murder. As you have learned from the testimony, the same, and but the one fatal and unfortunate affair at the Galt House, in Louisville, is the foundation of these two distinct and separate indictments. By the examining court, whose duty and province it is, if, upon enquiry, it deems a party brought before it so far culpable as to merit a stricter examination, to send him on to the Circuit Court for further trial, Dr. Wilkinson was discharged. No beneficial purpose in attaining justice; no requirement of law, demanded this double proceeding by distinct indictments. To the Doctor's conduct, the color of crime did not so far affix itself, but that the Mayor of Louisville, promptly, against the tide of public sentiment, dismissed him from further prosecution, as one in whom he found no fault. So inapprehensible was the Doctor, in the opinion and judgment of that officer of the law, a trial before a jury of his country was deemed not proper. I have not been able to perceive, nor do I now perceive, the propriety of including the Doctor in these indictments. In the affray at the tailor's shop, which

is unconnected in point of fact, and in legal contemplation, is separated from and independent of the transaction at the Galt House; the Doctor not only committed no violence, but one of the witnesses tells you he attempted to separate the parties. Opportunity, with safety to himself, the provocation of seeing his brother insulted on his account, and then overpowered, would surely have been a sufficiently exciting cause for that wantonness and malevolence of heart with which he is now charged, if in truth "fatally bent on mischief and regardless of social duty," he thirsted for blood. He then, as afterwards, had with him his pocket knife; angry, and personal altercation first, and then actual conflict between Redding and his brother, was transpiring in his presence on his own account, he spoke not an offensive word, he struck no blow. The harshest interpretation that can be given to his actions, is, that it is doubtful, whether he would have assisted his brother, or separated the combatants.

In the affray at the Galt House, not a solitary witness proves that he offensively participated in the affair; there is no evidence that he did, or even offered to do violence to his assailants, unless you are disposed to credit the statements of Oldham. What credence should be given to the testimony of that faith-worthy conspirator; what reliance can be placed on the oath of that volunteer in the fight, your knowledge of human character and the discretion of the gentleman you have already witnessed, will enable you readily to determine. To Redding and company the Dr. gave not the slightest cause of offence; he knew none of them, except Redding; was a stranger, passing through Louisville from Mississippi to Bardstown, and was found, much like a "certain man on his way from Jerusalem to Jerico, who fell among thieves and robbers, who stript him, beat him, and leaving him for dead, departed." Upon his entrance into the public bar-room at the Galt House, he was suddenly, unarmed, struck down senseless. He had assaulted no man, provoked no one, insulted nobody, he had not even uttered a syllable. The enormity of getting hungry, and coming down stairs to supper, when supper was ready, is the only crime he is proved to have perpetrated. For this offence he was assailed, bruised until he was livid, and not only beaten there until he was senseless; but now here again is he struck dumb by being joined in these indictments. His power of utterance is suppressed, and his tongue torn out by the roots, that he may not divulge the foul deeds of that night. By a ruse de guerre it may well suit the prosecutor to stifle the utterance, and suppress the testimony of all of the adverse party. The accused are not permitted, by any of themselves, to give a narration of the matter; no one acquainted with all of them, was present to remember their words, watch their move-

ments, feel their danger, and now detail the circumstances of necessity under which they acted. Redding and his party, the assailants then, the prosecutor and witnesses here, can, without contradiction, save from casual visitors at the house, or accidental lookers on, give what complexion they please to the cause. Why has Doctor Wilkinson, after his discharge, been included in these indictments? Why has his evidence been stifled—his power of utterance in behalf of his brother and Murdaugh choked? It cannot be pretended that he even deserves to be tried. Why, then, not permit him to be heard as a witness? A vision from one of the adverse party might much elucidate the matter. He has been included in the indictments, because those of neither side present, were persons from all parts of the Union, itinerant, unknown, their attendance as witnesses doubtful, flurried by the suddenness of the affair, their testimony composed from want of acquaintance with the parties, the ignorance or indifference of lookers on—all these circumstances forbade a hope that the proper acts and parts could be assigned to the proper individuals. Doctor Wilkinson out of the way, the combined oaths of the conspirators, they hoped, would give colour and cast to the case. The forms of law have been perverted to subserve the purposes of this prosecution by implicating the Dr. Explanation from an opponent, or the possibility of contradiction, save from some one accidentally present being cut off; they hoped by concerted swearing to accomplish what they so signally failed to effect by their combined attack. The Doctor is now inculpated, not because he is guilty, but because it suits the purposes of the prosecution that he shall not be heard as a witness.

I will here, gentlemen, briefly advert to the law of homicide in self-defence, and its bearing upon the facts in the cause so far as Murdaugh is concerned.

"Sec. 14. And not only he who on an assault retreats to a wall, or some such streight beyond which he can go no further, before he kills the other, is judged, by the law, to act upon unavoidable necessity; but also he who being assaulted in such a manner, and such a place that he cannot go back, without manifestly endangering his life, kills the other without retreating." 1 Hawkins, p. c. p. 113.

The right of self-defence, as settled by the law, is, first, that rule of action that is instinctively implanted in the human breast by the wisdom of providence for our preservation; it is only so far modified by the benignity of the law, and enlightened reason, as to require, that, from "tenderness of shedding a brother's blood," the assailed party shall so far recede and avoid conflict as his personal safety, or the violence of the assault, will permit. The rule of the civil law, that "*qui cum aliter tueri se non possunt, damni culpam dederint innoxii sunt*," is also the

English common law, contained in the latter portion of that section of Blackstone's Commentaries read to you by the Attorney for the Commonwealth; the party assaulted must not factitiously, but really retreat so far as he conveniently can; or, "so far as the fierceness of the assault will permit him, for it may be so fierce as not to allow him to yield a step without manifest danger of his life, or bodily harm; then, in his defence, he may kill his assailant instantly, and this is the doctrine of universal justice, as well as of municipal law. [4. B. c. p. 185.]

The same doctrine, that where the fierceness of the assault forbids, or no opportunity is afforded to retreat with safety to the assailed party, is the law as laid down by Hale, [1. H. p. c. p. 482.] and in the clear and lucid language of Mr. Justice Parker, of Massachusetts, in the case of the Commonwealth against Thos. O. Leffridge, "when the attack upon him [the assailed party] is so sudden, fierce, and violent, as that a retreat would not diminish, but increase his danger, he may instantly kill his adversary without retreating at all."

If Murdaugh was attacked at such time and in such place, and so fiercely, that, to save his life, or protect himself from great bodily harm, it was necessary to slay his assailant, the law adjudges him only guilty of homicide, excusable, *se defendendo*. Where the necessity is unavoidable, urgent, imposed upon the party against his will, neither reason nor law, require him to do what his safety and personal security forbid he should attempt to do. The law being as I have laid it down, and as may be read from those works of unquestioned authority, I now ask you to collate and apply the facts touching Murdaugh's conduct, to the law so understood.

The scope of action, and the line of duty, as permitted and demarked by the principles of law to an assailed party, have not been transcended by him by colour of and under pretext of the right of self-defence, in this instance, as I understand the testimony.

Murdaugh had no acquaintance with Meek, did not know him, had never before seen him; being a lodger at the Galt House, at the usual hour he came down from his room for supper. He came down with his coarse overcoat on, a serious incumbrance to a person about to engage in a combat; a garment of which any one meditating battle would have divested himself. Murdaugh is a small and feeble man, had he expected danger to himself, or purposed a hostile collision with any one, he would have been more efficiently armed. A pocket knife was the only weapon about his person. Had he deliberated an attack, he would certainly have divested himself of his heavy coat, and armed himself with pistols, or some more effective armour than a common pocket knife. The proprietor of the Galt

House, [Mr. Everett] informs you that the time of his coming to the bar-room, was in the evening about the time it is usual for the inmates of the house to assemble for supper. You are also told that it is customary, and that about the time of, and just before supper is announced, the boarders, sojourners, and others, congregate in the bar-room adjoining the dining room. When others assembled, and were preparing for supper, Murdaugh also, encumbered with an overcoat, and almost unarmed, came into the public bar-room. The tavern, for the time being, was his house, and he was entitled to all the privileges thereof, so long as he demeaned himself with propriety, and paid charges. Which of the party commenced the conversation is settled by Redding himself, who, although he recollects no concert or conspiracy, nevertheless informs that the altercation, in words, commenced by his accosting Murdaugh, and saying, "you are the man that struck me," or, "you are the man that drew your bowie knife at my shop;" or words to that effect. To this charge against him, falsely made in allusion to what had transpired at the shop in the evening, Murdaugh emphatically responded that "the asserter, (whoever he was,) of such a charge, was a d—d liar." To be calumniated to your face, and falsely taxed with an offence, (if offence there was,) provoked just such an response as such a charge deserves from a free, fearless man. The affair at the shop would never in all probability have been revived, or even so much as alluded to by the defendants. Time had intervened for the passions to cool and for reason to interpose, but in an irritating manner the former quarrel is called up. When Murdaugh asseverated that he was not the individual who gave the blow or drew the bowie knife at the shop, Meeks, with the murder of whom he is especially charged, seized him, saying, you are the d—d little rascal. When the conversation commenced, Raily, Trabue and others tell you, the crowd commenced gathering around them; to many of those in the room they were partially obscured. This gathering around him by total strangers was simultaneous with the revival of the previous quarrel, his position near the counter of the bar-room prevented his receding. As they advanced, Graham and Trabue tell you, he warned them off, and that warning, earnest as it was, passed unheeded. Now surrounded, retreat impracticable, a former quarrel revived, his warning unheeded, his knife-hand uplifted, as a menacing signal not to advance, seized by an unknown arm with an oath of violence, what was he to do? Meeks in wanton drunkenness imagined and had avowed, "that he was bound to have a fight on that night." Oliver had in friendship taken him off, and by a sort of pious fraud had obtained his knife under the pretence of paring his nails with it. Yet, ill-fated and as if demented and

doomed, he had returned, and at the same instant with laying violent hands on Murdaugh, Montgomery and others inform you, he struck him with a whip or cow-skin, and other blows at the same instant were inflicted by others. What, I ask you was he to do? Every man feels in his own bosom as testifying consciousness, that under such circumstances the right of defence would justify, the law of self preservation would impel him to act as the laws of his nature prompt him, and the laws of the land justify him in acting. The vilest worm, that crawls on the earth, if trodden upon will turn against the heel that crushes it. The meekest and meanest of animals, when hunted down to death, in desperation will turn on its pursuers; it is an instinct of nature impressed on animal organization by an all-wise providence. Situated as Murdaugh was, to defend himself, was but to act in obedience to a law of his nature; above the control of human laws, implanted in the constitution of his nature for good purposes, the love of self-preservation would predominate if even forbidden by positive municipal regulations, when assailed, overpowered and beaten down almost to the very jaws of death; to strike for your life or security of your person, is an instinct inherent in your nature by the laws of heaven,—it is an involuntary, spontaneous effort of your animal organization—it is the inspiration of God Almighty himself, upon the human heart, to rebel and contend against destruction.

Impelled by extreme necessity, under great impending peril of life, Murdaugh did stab Meeks, and of that wound he died. Although the calamitous occurrence is to be regretted; who can doubt the necessity of the act? A left hand thrust, with a pocket knife, by a feeble and partially disabled man in defending his person against dangers, and himself from degradation, against a superior in strength, aided by numbers, caused the death of Meeks. It, gentlemen, is unnecessary for me to recapitulate the testimony, or array the facts, to prove what is perfectly evident, that Meeks' death was the result of a necessity, that he causelessly, wantonly, and without provocation, imposed on a stranger, to him unknown, and who in deed or by words, had never offered him injury. The manner of the attack—the weapon used by Meeks, (peril and necessity apart) gave higher provocation than a brave man will tamely endure. Should Murdaugh, when stricken with a cowskin, have submitted? Should he have whined and begged as a negro slave, when lashed? Should the finger of scorn be pointed at him as a coward, disgraced by the whip? The jests of the rude, the taunts of the vulgar, would mark him for insult and mockery, had he not fought: the very girls, even at church and on gala days, would have pointed to him as the chivalrous young gentleman of the striped jacket, had he tamely submitted.—

There is not a man on that jury, who deserves the name of a man, that would passively submit to personal degradation by personal chastisement. The whelks of the cow-skin would bleed and blister, fret and forever fester upon his memory, long after all traces of the lash were cured on his back. The life of the aggressor could alone atone for the indignity.

As the accusation is more gravely urged against Judge Wilkinson than the other defendants, I will now advert to his conduct. Suits to obtain personal satisfaction for assaults and batteries they never committed, are pending against the Doctor and Murdaugh for the affair at the shop; an indictment is also pending against them for that violation of the public peace. This attempt to amerce the Doctor, and hold him pecuniarily responsible for an injury he never committed, is alike to those indictments against him for the murder of men he never before in his dream had thought of, much less of violence towards them. This persecution is, perhaps, on the ground that he was the Judge's brother.—Murdaugh, too, shares in all this legal persecution; first, because he is in bad company; and, secondly, because *se defendendo*, he slew a man so vile, that the prosecution would discredit and render infamous the only man (Oliver) who seems *disposed* to recognize him as an acquaintance. The violation of the public peace at the shop, is an injury that another jury will pass upon, and by their verdict, avenge the insulted majesty of the law. Another jury will mete out to the prosecutor satisfaction for the injury received on that occasion. You are now, gentlemen, called on in the name and on behalf of the Commonwealth, to convict Judge Wilkinson of the murder of John Rothwell, a worthier and less offending man in the affray than Meeks, as it is insisted, and because, however excusable the other defendants may be, the Judge at least, as the Commonwealth's Attorney contends, did not act in necessary self-defence.

In addition to the authorities already alluded to relative to the doctrine of self-defence, the following positions upon the law of homicide, are, I believe, sustained by reason, and deducible from the text and reasonings of standard authors. When a retreat would not diminish, but increase the danger of a person under the imperious necessity of exercising his right of self-defence, he may, without retreating, oppose force to force, and even pursue his adversary unto death, if his own preservation require it, and such killing is justifiable, [see Fos. C. L. p. 273—1 Crim. Law, p. 80.] The right of self-defence is not confined to the party endangered—it is not only an individual, but a social right—it embraces the principal civil and natural relations; husband and wife, parent and child, master and child, not only may, but in duty, are bound to protect one another;

and holds good between citizen and citizen in the spirit of the law, according to the reciprocal duties they owe one another. A servant, or any other person, when a felony is attempted, may interpose and justifiably slay the aggressor. A person in possession of a tavern room, although no injury be intended him, may, against burglars or incendiaries, oppose such force as may be requisite to prevent the felony. To protect against murder, robbery or enormous bodily harm servants of the party attacked, or inmates of the house about to be robbed, may justifiably take the life of the assailant or robber, [See Arebold, p. 121; Foster, p. 273-4.]

I quote, almost literally, from the best law writers—these cases are but examples to illustrate rules—the law is more palpably embodied and distinctly presented to the understanding, when exemplified by a case, than when presented as an abstract rule of action without reference to circumstances. Homicide is justifiable, or excusable, when committed upon compulsion, and *ex necessitate*; because the party does it not from choice as a free agent, but his action on the matter is constrained, his volition controlled by external circumstances—the concurrence of his will to the deed is absent—when there is no freedom of action, no *voluntary assent* of the mind, there is no moral, and should be no legal accountability. When it is practicable with safety, the law to eschew the shedding of blood, requires the party should retreat in cases of mutual conflict. But this requirement is only when it is consistent with his safety, and if his safety requires it, he may be stationary or advance with as much propriety as recede. How flight would have affected the Judge's personal security, is now a matter of pure speculation; if, for his own personal safety, he was constrained to act as he did, or if in the exercise of a social, not a selfish privilege and duty, he succoured his brother and Murdaugh, to preserve their lives or protect them from great bodily harm, he, in law, is excusable. Society and mutual companionship justify such interference, as is happily illustrated by the case of the three men walking in a field, and one is assailed, the others may interpose to prevent a felony being committed, and may interpose to any extent to make their interposition effective, as you have already learned from the case so aptly quoted by Col. Robertson. The reason of the law is this; the life of a citizen is, in its contemplation, dear, his person sacred. Against assaults, injury, or destruction, he may defend them to the last extremity, if the exigency of the occasion demands it, that right is not altogether personal to him, but it is a social right; and it is not only the right of any person to interfere to prevent the perpetration of a felony, but such interference to intercept the commission of a crime is enjoined as a positive duty.

The natural relationship between the Judge and his brother, the mutual ties of friendship between him and Murdaugh, his duty as a citizen, justified him in interfering in the conflict to defend them. By the spirit of the law for the purpose of defence, he is identified with them, their necessity and justification is his, their right of self defence is transferred to him, or is rather common to all. If the Judge has not malignantly transcended the degree of violent interposition necessary to save his brother and friend's life, he has but fulfilled his duty as a citizen. I do not desire to be understood that officious meddling in broils is countenanced by law, nor do I mean to assume the position that where combatants are struggling in an affray to prevent mischief, or keep the peace, extreme violence is proper; no such licentious latitude of action is even permitted to those engaged in the conflict; I limit the right by the wholesome restrictions imposed on wilful, wanton killing in other cases. Before I call your attention to the evidence, I will merely advert to another principle of law which is sound in doctrine and applicable to this case. In treating of justifiable homicide in the due advancement of public justice, and in allusion to what killing is justifiable for that purpose, the opinion is intimated as correct by the author. 1 Hawkins P. C. 107. "The killing of dangerous rioters by any private person who cannot otherwise suppress them or defend themselves from them, (is lawful) in as much as every private person seems to be authorised by the law to arm himself for the purpose aforesaid." This doctrine seems so near akin to lawful killing in the execution of public justice by hanging, or in the arrest of felons who cannot be apprehended alive by those who pursue them, that I cannot question its correctness. The law to maintain itself and be respected must tolerate the means to suppress rebellious contempts of its authority, and such means should be proportioned to the exigency of the occasion and consistent with the safety of the orderly and law-abiding citizen. Rioters assembled in force like rebels against the government when they condemn the supremacy of the law and spurn its commands should be regarded as outlaws and traitors. The law surely cannot cherish any such suicidal and disorganising principles as a favorable regard for those who have forfeited all claim to be within the pale of its protection by their disrespect for its principles and the institutions of their country.

Without a laboured analysis of the testimony, the prominent facts are few and substantially as I shall recall them to your minds. I have but little to say of the scuffle in the evening at the shop, the occurrence itself is quite impertinent to the matters now in issue as I conceive. The defendants were staying at the Galt House in Louisville. Judge Wilkinson was to be married in a few days at Bards-

town in the interior of the state. Whilst in Louisville the wedding day being just at hand, it was thought by them that the operatives of one shop could not in time finish the necessary equipments in the way of dress. The Judge and Murdaugh applied to Davie, one of the witnesses, to make their clothes. Dr. Wilkinson engaged Redding to construct for him a coat to wear to his brother's wedding. Dr. Wilkinson to ensure promptness and satisfy any misgivings Mr. Redding might entertain of him, a stranger, deposited with him a one hundred dollar Mississippi note. The money was appreciated, the Dr. did not wish to loose the exchange in converting it into Kentucky money just at that time, nor did he desire to incur a possible suspicion on the part of Mr. Redding, that the garments would not be paid for. The Judge and Murdaugh obtained their clothes and went to Redding's shop with the Doctor, accompanying him as is usual with comrades in strange places. The fit of the Doctor's coat did not please him, alteration was suggested. The Doctor was for throwing the coat on Redding's hands as an article he was not bound to receive. Some chaffering took place. The hundred dollars was not surrendered, and that was the whole cause of the difficulty. Redding retained the money and insisted that the coat was, or could be, made to fit as such an article of dress ought. The Judge, who was in the room, gave his opinion of the coat. It is probable Redding was not apprised that he was a brother of the Doctor's; he spoke so harshly and insultingly that the Judge rose from the stove where he was sitting, and struck Redding with the little iron rod used for stirring coal. The Judge may have been too hasty, but insulted by being told he was a meddling, busy body, or substantially that, as you no doubt recollect the testimony, did no more than almost any one might be provoked to do. A scuffle ensued in which neither the Judge, nor Redding, nor any one else, was hurt. The parties got from the shop into the street; were separated, and departed, when? Just as soon as Doctor Wilkinson got his money. Had the money been surrendered as it should, there would have been no difficulty. But for the occurrences happening since, the affair at the shop would have passed off, as it was in reality, a slight casual fracas not worthy of notice. The attempt to swell it into an important fight is ridiculous and the expression of my opinion about the \$100 is the most aid I can give you in your deliberations upon that mass of immaterial testimony *from the shop and about the shop.* After the parties separated the Wilkinsons and Murdaugh go to their boarding houses, ashamed of what had happened I have no doubt, or rather not thinking of it at all in the preparations making for their trip to Bardstown. Not so with the other party in the quarrel. Menac-

ing speeches and hostile movements characterise their deportment. In Redding's coffee house adjoining his shop, Meeks, Johnson and his friends are seen. The affray which had taken place is talked of and discoursed, and the proposals and propriety of going to the Galt House to give the Mississippians "hell" is mentioned. Warrants in blank against the defendants were offered Redding; those however he did not accept, to insert the names when ascertained. Redding, however, must go to the Galt House to procure the names. The *pacific* Johnson, Redding's legal adviser, had made the proposal to give them "hell." Upon this "steak cutter" immortal celebrity has been conferred by the roasting he has received at the hands of the gentleman (Mr. Prentiss) who preceded me. Meeks gets his knife ready, is under the persuasion—yes, a sort of religious obligation rests upon his conscience that he is bound to have a fight that night. He seemed, however, to have loaned his knife, and gotten in its stead a cow skin. Oldham who goes around for any chance is up in blood for a fight "on his own hook." At the ingathering, Rothwell, Redding's brother-in-law, and Holmes, congregated with others. The concert of action, the hostile intentions, the conspiracy to inflict grievous injury on the defendants, is so obvious from the testimony, and has been so clearly enforced and happily commented on by others, (Col. Robertson and Mr. Prentiss) that I will not fatigue you with its repetition. When the combined forces had convened according to the plan of concert, allow me gentlemen of the jury, to ask your marked attention to the manner of conducting the battle. Several hours had elapsed since the skirmish at the shop. The names had been obtained; Redding awaited it is said the coming of a peace officer to serve the process. The names when procured, like the rejected blank process, did not satisfy him—staying for the Marshal of the city or other peace officer at that place, an hour or more getting a memorandum of their names, are but flimsy afterthoughts to cloak another arrangement. Redding and his friends, picked men of herculean strength and stature, are *accidentally* in the bar-room about the time the boarders and lodgers at the house assembled to catch the news or be ready for supper. Judge Wilkinson, who I venture had scarcely thought of the battle of the shop, came into the public room alone. If Redding did not recognize the Judge, and if curious about his identity, why did he not address his enquiry to some third person? Why address himself to the man he had fought with only about four hours before? As if ignorant why insultingly enquire of him, "are you the gentleman that struck me in my shop?" The Judge very calmly and readily replied, "I am." This conversation thus commenced, and the torrent of vile abuse from

Redding instantly following, I take it, was intended to provoke an assault from Judge Wilkinson. Had he resented by an attack the opprobrious epithets so lavishly bestowed upon him, Redding and company, as the assaulted party, would have shielded themselves under it, as a legal justification to have inflicted upon him a most grievous battery. This finesse to bring on the fight failed, and Judge Wilkinson returned to his room. Great forbearance had been exercised by Judge Wilkinson. He claimed to be protected from insult and violence, and requested of the proprietor of the house (Mr. Everett) to furnish him with pistols at his room. No arms were brought to him and after remaining in his room about a quarter of an hour he again came down to the bar-room. In the diagram shown you to point out the localities of the house, you recollect in descending the stairs, just at the foot, there is a window overlooking the bar-room. Time for Redding to depart had intervened since the recent quarrel, and in passing the window by the stairway, if Judge Wilkinson had thought of it and passed into the public room, he would not have discovered Redding there. The witness, Raily, informs you that when Judge Wilkinson, at Everett's instance, returned to his room, Redding and some of his friends also left the public room and went into the entry or across the passage into the reading room. The Judge came into the room in company with the other defendants, or they were immediately in his rear. Up to this time no intimation had ever been given to the defendants that Meeks or Rothwell were enemies; Redding was the only one of the conspirators personally known to them. The existence of such conspiracy, they were as ignorant of as they were of the individuals who composed it. The Judge, it is true, was armed with a bowie knife, but Murdaugh and the Doctor were not equipped for fight. Redding again came into the room, he had been foiled in his effort to bring on a fight by the patient forbearance of the Judge. During the interval, the Judge was up stairs, it is more probable that Redding left the public room to rearrange his plan of attack than for any other purpose. Whether Judge Wilkinson's knowledge of the topography of the house would have enabled him to sneak to supper by the way back of the bar-room designated in the diagram we do not know. The premonition he had already received, would have induced a prudent man to arm himself; he came into the bar-room the usual route to the supper table. His right to wear arms for his defence is as unquestionable as his privilege to come into the room. About the time of Redding's re-entry into the room, Mr. Pearson, just when Murdaugh was attacked and the remarks were made which I will presently attend to, accosted Judge Wilkinson, to whom he had been passingly introduced the previ-

ous summer, and told him it would be better to leave the room. This suggestion from Pearson he acceded to, and was about leaving when the quarrel and fight arrested his attention and checked his exit from the room. The admonition from Pearson and the testimony from the other witnesses are replete with proof, that however secret to the defendants, it was apparent to others they were to be attacked. The remark made in their absence up stairs, the mysterious presence of unusual personages about the house—fighters all; but too clearly foretold the impending danger. At the shop Murdaugh had displayed hastiness of temper; he was young; with him a fight might be provoked; he would possibly answer their purpose. The Judge had been insulted but declined battle. Just before Murdaugh was angered by a provoking falsehood, as to his drawing his knife &c., at the shop, Redding is heard to say, "these are the three men," or "here are the three men;" mark the words; they are of ominous import. To whom were they addressed? The words, "The one whom I shall kiss is he," did not more significantly mark the object of treason than Redding pointed out the defendants. When the conversation commenced, the conspirators at the signal, like Cæsar's assassins when the petition for the recall of Metellus from exile was presented to him in the senate chamber of Rome, gathered around the intended victim. The murmurs that in whisper had presaged the storm; the growling muttering broke into open violence. The onset is made upon Murdaugh in one part of the room as we have before stated. At the same instant the Doctor is stricken down. Proximity to Pearson an esteemed citizen of Louisville perhaps saved the Judge. About the time Murdaugh stabbed Meeks, from the testimony of General Chambers and Montgomery, you cannot but be satisfied that Rothwell with his cane or bludgeon, was also inflicting violence on him, then reeling and almost bound to the floor by severe blows on the head. The severity of the blows is evident from the scars left, and Meeks could not and did not inflict them. At this crisis the Judge did inflict with his bowie knife a wound upon Rothwell in the side or back. Murdaugh, extricated, seems to have gotten from the room, and in that part of it where Holmes had the Doctor down prostrated and lifeless, Rothwell hard by, is again stabbed by the Judge. As soon as disengaged the defendants retreat to their room up stairs. When Rothwell received the second stab a futile attempt is made to show, and Johnson swears he was performing the office of pacificator. He was one of the conspirators, was present, engaged in the fight, had come to the Galt House for the purpose of abetting the lawless violence and it would be as miraculous if any such instantaneous revulsion of purpose seized him, as it is wonderful that no one present heard the pacific ex-



clamation, "peace! for God's sake, peace!!" about the time of the second stab, except this redoubtable and veritable Billy Johnson. This sketch of fancy, is no doubt of a piece with much of the testimony of the conspirators in relation to the matter. Pride of character, if any they have, tempts them to extenuate their conduct for their own exculpation. Chagrined by defeat, burning for vengeance, they testify with all the feelings a party could in his own cause. Their account of the occurrence, should be discarded, because others present were disinterested lookers on, whose recollections are not warped by bitter prejudices. The testimony of persons not of the party, is every way less exceptionable, less suspicious, and more satisfactory. In scanning the testimony of various witnesses to the same occurrence, enlightened reason teaches the propriety of not rejecting what one testifies, because another did not see or hear the same thing. That you did not see, or do not know what I have seen or what I know, is no reason even to doubt the detail of facts I may make. When within the range of human probability a credible witness attests the existence of a fact, it outweighs the negative testimony of the whole world. What you know to be true is not the less so because others do not know it. Now, rejecting altogether the testimony of the conspirators, or in charity permitting it to prevail, when not contradicted by the unenlisted lookers on, the brief narration of the matter up to the stabbing of Rothwell is a succinct history of facts. To reconcile apparent clashings, or rather to fill up omissions in detail which may seem to occur, apply the rule just suggested, and you may well credit and reconcile all that those gentlemen have testified to. What Trabue saw may have escaped the observation of Graham or Raily, and so of others. The testimony of one cannot be impugned because another did not see or may not recollect what he sees. Of the wounds inflicted by the Judge, and a wound inflicted in the breast by an unknown hand, Rothwell died. By collateral remarks foreign to the cause I am unwilling to detain you. The severity of the conflict is too well attested by the death of two, and wounds of others of the assailants. The peril of the conflict to the defendants is too well attested by the still visible marks of violence on their persons. The brutal and merciless beating inflicted on the Doctor, the attempt not only to chastise, but to take the life of Murdaugh, as manifested by the cuts with a deadly weapon through his hat; the assassin stab the Judge received when the combat was being declined, by returning to his room; a retreat itself by brave men, too clearly proves, that *enormous bodily harm* and impending hazard of life had placed the defendants in the attitude justifiable of self-defence. By the joinder of the defendants in the indictments, they are identified in the proceedings as one individual. If for the pur-

pose of accusation, the crime of one is the crime of all, the right of defence should be deemed the right of all to defend. Are good citizens to stand by and let a lawless band of ruffian conspirators slaughter them one by one? Must each run as far as he can, and if overtaken fight if he can? The prosecuting Attorney, (Mr. Bullock,) seems to insist that, unnecessarily, in their malice, Judge Wilkinson stabbed an unoffending man in the back, and thereby caused his death. The nature of the offence is not affected by the part of the body the blow may happen fortuitously to alight upon. That the blows were inflicted maliciously, or even willingly, except so far as constrained assent of the mind constitutes such willingness, cannot be believed. Suppose, gentlemen of the jury, any three of you were to go to the state of Mississippi and land at Vicksburg or Natchez. Whilst temporarily at a tavern in one of those places, before proceeding to the interior on your business, you have a difficulty with citizens of the place and kill two of them. When the news reached your friends here in Kentucky, a thousand miles from the scene, would they not be willing to swear that necessity, and necessity alone, induced you to kill strangers you never before saw; men too, with whom neither from business, nor acquaintance, you had ever before had intercourse. Judge Wilkinson with his brother and friend had come to Kentucky on an embassy of love. So near the consummation of his nuptials, he would not desire the comeliness of his person nor the integrity of his attendants to be soiled by a fight. At such a time, distant, far distant from his thoughts, would be meditations upon bloodshed and murder. As a visitor to our state he was entitled to our hospitality. We do not as the wandering Arabs of the desert, seize and prey upon the confiding traveller. Surely we are too civilized to regard all strangers as enemies, and like the piratical barbarians of Northern Europe in the dark ages, consider as lawful booty all who unfortunately or accidentally are cast upon our shores? To our state, as the abode of hospitality, Judge Wilkinson had come to contract the tenderest of human relations with one of the daughters of your land. A distinguished citizen of his own state and known throughout the union as a valued and honored citizen, a pacific man, at such a time, is it consistent with reason to believe that he would, but by constraint, have involved himself in so disagreeable a difficulty? After the rencounter at the shop, and Judge Wilkinson had had time to bethink himself of the propriety, the flurry of feeling had subsided, and he seems when accosted by Redding at the Galt House to have sternly resolved on no farther difficulty. Quietly he submitted to the foulest tirade of abuse Redding could heap upon him. As far as forbearance is a virtue, he displayed it in an eminent degree. His inflexible purpose not to have

a difficulty, was not changed by the vilification and gasconading of Redding. The language and the deportment of the Judge, his retiring, the motives of action that would influence any man circumstanced as he was, evidences how studiously and consistently with self-respect he avoided a conflict. Now, permit me to ask you when at last a fight was forced upon the defendants, what should Judge Wilkinson have done? Ought he to have stood calmly by, until at leisure they were all lynched or slain in detail? Should he if practicable have run until caught and then have fought? No! No!! As a true man against them, lawless rioters, he had a right to defend his companion and brother. A mob arrayed in numbers, with force were inflicting ignominious and grievous hurt upon his companion and friend. Men whom he had never wronged, unmerciful in their wanton riotousness of superior brutal force were mangling Murdaugh with bludgeons, and instruments of death were savagely playing about his person. The Doctor, his brother, whom he loved with a brother's heart, was overpowered, down, trdden; they were crushing the life from his body as he lay prostrate on the floor; ought the Judge to have refrained from interfering? Who could refrain? Does reason or law require any such degree of high and impracticable philosophy as apathy and indifference under such circumstances? He that would not rescue a friend or a brother never deserved the fidelity of the one or the affection of the other. Had the Doctor or Murdaugh been murdered and the Judge had not interfered, a voice of execration against his faithlessness and cowardice would have rung over the whole state that could be only equalled by the deep-toned denunciation that would have resounded through the length of the land, if the mob unharmed had succeeded in their bloody and murderous purpose. The revolutionary and disorganising proceedings of mobs in New York, in Mississippi, and at other points in a few years past, have tarnished the fair character of our country. These lawless conspirators have imprinted on the escutcheon of our state the first foul blotch of Lynchism. Contemners of the law, signally foiled by the resistance of their victims, in the name of the law, they now ask you to perform an act of vengeance for them. Rebuke them from this place, repudiate their claim to be avenged, through your instrumentality on men, whose lives they have attempted by violence, whose characters they have traduced, whose liberty they have infringed by incarceration in a common felon's jail, and whom they would now doom to felon's graves. By your verdict proclaim to the world that our state in by-gone times, known as the "dark and bloody ground," is now a land of civilization, where peace and good order in society are respected and the laws revered. Gentlemen, any inaccuracy of statement as to the

evidence, I have fallen into, your memories will correct. The further defence to be made by an older and abler advocate, will more than supply all omission on my part. As to myself the fate of the defendants is in your hands. I thank you for your polite attention.

[At 40 minutes past 2 o'clock, Mr. BENJAMIN HARDIN commenced his address, and spoke for two hours and a half, which, with the similar space of time occupied by him next morning in conclusion, made a speech of five hours on the whole. It will be obvious that it would be quite beyond the limits of this publication to publish every thing uttered by any one speaker in five hours. A person can read through an ordinary novel in that space; and, generally, a fluent speaker says more in a given time than can be read; so that a little reflection must convince any one that a speech of five hours alone would fill the whole of this pamphlet. In reporting Mr. Hardin's speech, therefore, it has been found necessary to compress it into a fifth or sixth of the space it would properly occupy. In doing so, much is gained and much lost by the reader; condensation in the argument is gained, but many of the graces of oratorical ornament and wit, must necessarily be sacrificed. The object of this publication being, however, to place facts, and the reasoning upon them, before the public; it is conceived that object will be attained by the compression of the longest speeches without any serious disadvantage.]

Mr. HARDIN:—I shall, gentlemen, very humbly and very cordially, congratulate you upon having this case brought so near a close. It has already been protracted beyond the usual limits of criminal trials by the extraordinary ingenuity and uncommon array of talent enlisted on the occasion. The gentlemen on the opposite side have felicitated you upon the *politeness of your patience*: and, among others, I, too, return' you my thanks for your attention.

I little expected, when I engaged in this cause in Louisville last winter, that I should ever have to address *you* on the subject. Although I have been fifty years practising at the Kentucky bar, this is the first time I have ever had to address a jury in this place; and I cannot help feeling that I am as much a stranger here as any gentleman who has addressed you. I shall, however, in speaking to you, apply myself to an exposition of the facts, and of the law bearing upon them, and whatever may be your feelings, you will, I am sure, keep in mind, that you are bound to exercise your reason, and that you owe a duty, of no ordinary responsibility, to yourselves, your characters, and your country. That duty is a sacred trust reposed in you, which you can-

not weigh lightly without injury to yourselves as well as wrong to others. Nor must you surrender up your reason to your passions, and allow yourselves to be carried away by the shouts of applause from a fashionable audience, as if you were in a theatre where a Junius Brutus Booth, and a Miss Ellen Tree, exhibit the practised arts of controlling the feelings, and successfully eliciting the noisy plaudits of excitement. This is not a Theatre—this trial is not a farce—nor are you seated on those benches for amusement. This, gentlemen, is a solemn Court of Justice—a solemn tribunal, in which your Judge, presiding with becoming dignity, represents the majesty of the law, and in which you are expected to deliberate with becoming gravity upon circumstances of awful import. The appalling death of two fellow-creatures, is the occasion of your being here assembled, and the guilt or innocence of those at whose hands they fell, is the object of your solemn investigation.

Even though I knew I should have to address a jury of strangers, and an assemblage to whom I am personally unknown, I little anticipated that I should have to make a speech to any other audience than that usually to be found in our halls of justice. But, my friend, Col. Robertson, whose youth and warmth in that way, urge him to precedence, has taken me by surprise, and placed before me a gallery of beauty and fashion, which might well deprive me of my presence of mind, if I were not fortified with less of the ardour of youth in my veins than himself, and were I not less practised in those graces of person and manners which he can so successfully play off to woo and win their fascinating smiles.

By law, and in conformity with the original institutions upon which all law is founded, this trial was to have taken place where the occasion of it occurred—in the county of Jefferson. The legislature, in its wisdom, has thought fit to change the venue from Jefferson to Mercer county; but why, I am unable to say. For, even Colonel Robertson, the very able counsel for the defence, has admitted that, although for a time, great excitement existed in Louisville, yet, after the investigation at the examining Court, that excitement was altogether allayed. In this country experience has always taught us that when a change of venue is sought, the object is not to obtain justice, but to evade it. The object is to thwart and embarrass the prosecution, and multiply the chances of eluding the responsibility of the law. How is this effected? Is it not by a removal to some place esteemed favorable to the accused; by a removal so distant from the scene of action, that the expense and inconvenience render it probable but few of the witnesses can attend; by a removal to where witnesses of a character dubious, if not infamous where known, may find credit because they are unknown. Here we are some seventy or eighty miles

from the stage on which this tragedy was acted, yet we are asked why we did not bring the stick and the cowhide, and Bill Holmes the pilot, as if we would be afraid to produce them were they within our reach. I would ask the opposite side, in my turn, why gentlemen have brought us eighty miles from the scene where we could have elicited the truth in every particular? I listened yesterday with great pleasure to Colonel Robertson, whose speech was very good, and evinced as much of the fire of youth, as the flowers of rhetoric; but I cannot say it was much calculated to convince the understanding that the "worse can be made to appear the better cause." I also listened with great pleasure to Mr. Prentiss, who addressed you yesterday, and in part to-day: and I must say that, although there were in his speech some things which I could not approve, and many deductions which I could not admit; yet, on the whole, it was an oratorical effort which I could not help admiring. I am even disposed to go farther, and to say that I am utterly astonished that such forensic powers, and so ably wielded, did not prove less abortive—but I must attribute the feebleness of the effect, more to the weakness of the cause, than to the want of genius in the advocate. However, Mr. Prentiss really astonished me with one proposition he laid down with respect to the common law of this country, that every man is to judge for himself where the point of danger lies; that entitles him to disable another, or to kill him, lest he might, in turn, by possibility, become the killer, so that, in fact, if it were so, the point of danger never could be defined by law, because what a brave man would consider no danger at all, a timid man would consider the point of danger bristling with a thousand deaths. Was there ever such a monstrous doctrine recognised by the laws of any community!

[Here Mr. Prentiss interrupted Mr. Hardin, to say that he had only urged that what might be considered by a man, from apparent circumstances, the point of danger, where resistance was necessary for his own preservation, would in the law be grounds for justifiable homicide.]

Mr. Hardin:—I will come to that in due time.—The dilemma cannot be removed, that the same point, according to this doctrine, is, and is not, the point for the resistance contemplated by the law.—No, gentlemen; the law recognizes no such absurdities. The law was laid down yesterday correctly by the District Attorney, that when the killing of a man has taken place, it is a murder in the eyes of the law, and must be pronounced by the law to be a murder, till the contrary is shown. What then becomes of this new doctrine, unknown to the law, that the slayer and not the law, is to judge and presume the justification? The law itself says, all killing of one man by another is murder. The slayer, according to Mr. Prentiss, says, oh, no, I killed my

man because I fancied he would kill me—it is no murder, it is justifiable homicide! Yet, the law again says, if a sheriff, who hangs a man by lawful authority and in doing so, commits only a justifiable homicide, should, even for the best of motives, instead of hanging the man, as bound to do, chop his head off with a sword, though death must necessarily follow either way; yet is he guilty of murder, and liable to the punishment, for the killing contrary to the prescribed mode of his duty. There are certain maxims of law laid down in the books which are never disputed, because they are founded upon reason and just principles; such, for instance, as these:—If A. kill B. from necessity, to save his own life, the danger being undeniable, it is excusable homicide. If A. kill B. in a sudden heat of quarrel it is man-slaughter. If A. kill B. without what in law is called a competent provocation, it is murder. If a man fire a pistol ball into that crowd and kill a man, though it were his bosom friend against whom personally he could have no previous malice, it is murder, though he did not intend that death. It is murder in the eye of the law, because the recklessness of human life implied in the rashness of the act, shows that general malice to mankind, which is equally dangerous to the community as any private malice could be. I will read you the law upon the subject of words in a quarrel being no provocation sufficient to justify assault. [Here Mr. Hardin read the well known text that words are no provocation in law.] All killing is murder unless an excuse is shown; but words are no excuse, because they never bring a killing below the crime of murder; neither are indecent and contemptuous actions justification, according to Raymond and Blackstone. Here is a maxim in point—If there is a previous quarrel between A. and B., and sometime after, in consequence of the previous quarrel, they fight,—then nothing connected with the previous quarrel justifies a killing, and it cannot be excused, unless it clearly appear that B. in killing A. had to do so to save his own life. See Hale's Pleas of the Crown, 452. "If there be malice between A. and B. &c."

The application must be made to the fight at the tailor's shop; and this answers the question why we have introduced evidence in proof of the first affray. There is one principle of law to which I may as well now call your attention as at any other time.

When men act together, and by consent, it is no matter who gives the wound causing death—they are all guilty in the eye of the law of the offence, whatever it may be. [404.]

And in relation to that sort of wound—if a man receive a wound, not of a dangerous nature—but by gangrene, or consequent fever, death ensue, it is murder or manslaughter, as the case may be, as much as if the wound itself had been mortal at the instant.

Mr. Prentiss labored a position, and labored it ably, I admit; but Mr. Bullock had previously combated its application successfully. The position is advanced upon the well known quotation from Lord Hale:

"If A. B. and C. be walking in company together, and C. assault B., who flies, and is in danger of being killed from C's. pursuit, unless present help be afforded; and A. thereupon kill C., in defence of the life of B.; it seems that in this case of such inevitable danger of the life of B., the killing of C. by A. is in the nature of self-defence, but it must plainly appear by the circumstances of the case as the manner of assault, the weapons with which it was made, &c., that B's life was in imminent danger."

A man seeing another kill a third person, may kill the man about to commit the felony, but then it is at his peril he does it, and he is responsible to the law for his interference. Upon this text, if you are to acquit Judge Wilkinson, it must be apparent that when the stabbing took place, there must have been manifest danger to his brother's life, there must have been an apparent—an absolute necessity. To show that there was no such necessity, and to place before you in a clear view the leading features of the facts, I will now claim your attention to the review I shall make of them.

Mr. Redding keeps what is called a Merchant Tailor's shop on Main street in Louisville. His store is not far below the Galt House on the opposite side.

These three gentlemen, now arraigned before you, are residents of the State of Mississippi, and formerly, as I am informed were residents of the State of Virginia, and, for aught I know, of the same county, town, or village. They came to Kentucky early in December, for what, is of no import that I can see, although it is made to cut a conspicuous figure here as a favor conferred on Kentucky—a contemplated marriage at Bardstown. They arrived at the Galt House. Where Judge Wilkinson had his clothes made up, if he had any prepared for the occasion, is not shown. Where Mr. Murdaugh had his made, if any, is not shown. But it is shown that Doctor Wilkinson was to have clothes made at Mr. Redding's. They were made with great punctuality, and the Doctor came to Redding's store at the appointed time. He tried on the new coat, and seemed well pleased with it. So satisfied was he with the coat, that he wore it on the spot, and left a \$100 bank bill on account of payment, requesting Mr. Redding would hold over the bank bill, which was of a Mississippi bank, till some expected change for the better would take place in the rates of discount. Doctor Wilkinson then went away, wearing the coat, and desiring the other things to be sent to the Galt House. As I now come to where it will be necessary for me to mention the names of witnesses,

I beg it to be understood that I do not mean to avail myself of the example set by the opposite side. I will not shelter myself behind my professional duty, to vilify an unfortunate witness, disarmed of his self-defence—unfortunate, because of his inability to make any reply in the same public court in which he is maligned. Younger gentlemen at the bar than I am, may indulge in the practice; and, perhaps, the rashness of youth and inexperience may excuse what wisdom and manliness could not justify. No character, however spotless—no reputation, however unstained before—can escape the sully hand wantonly raised to tarnish it, where there is no immediate opportunity of wiping away that which corrodes while it damps the lustre.

When Doctor Wilkinson returned to Redding's store, accompanied by his brother and Mr. Murdaugh, some objection was made to the collar of the coat. It was no serious objection, we may suppose, for we hear from Mr. Prentiss, himself, "the expectancy and rose of the fair state," that he perhaps would not have been quite so fastidious. Perhaps, some young fellow, like my friend, Colonel Robertson, "the glass of fashion, and the mould of form," might have been a little squeamish; but, for myself, every one knows, I am not particular. I never should have knocked down a tailor with an iron poker because there was a shade of fashion lacking in the collar of my brother's coat. The whole thing, I admit, is a matter of taste, the poker included.

But there was, however, some objection to the fashion of the coat—and that objection was thought grave enough to enlist the triple wisdom of a dignified judge of the land, an eminent Doctor of a distant state, and a sage member of the Mississippi bar. Yes, with this formidable array of judicial wisdom, pharmaceutic skill, and legal research, these three gentlemen came to a little store in Louisville to fight a poor tailor! And all about an unfashionable twist in the collar of a coat.

To be sure they came from the El Dorado of the South, with their thousands of bales of cotton condensed into their pockets. They were perfect magnets of attraction, for the secret of their loadstone lay wrapt up in their Mississippi bank notes. Hotel keepers were bowing to them on all hands, tradesmen and store keepers honored the pavement they trod, and as to tailors, I am ready to believe they became perfectly fascinated with them. Nay, I even make no doubt that the keepers of watering establishments and medical springs, submitted to the soft impeachment, and became devoted to their interests—it is the necessary consequence of the influence of cotton bales.

Here was this hard-working tailor, ever on the watch for good customers, bowing to them as assiduously, if not more assiduously, than the Hotel keepers, or Spring Doctors—taking back his coat, I

have no doubt with tears in his eyes, but is it reasonable to suppose, that, fascinated as he was, by the ability of such customers to pay, he would be so blind to his own interests as to give unprovoked cause of quarrel to such customers? However backward he may have been from prudence and circumstances, it seems there was no want of readiness to carry matters with a high hand on the part of those with whom he was dealing.

Judge Wilkinson is sitting on a stool at the stove and when he sees his brother about to pay for the pantaloons and vest, he interferes without being called upon to do so, and opposes the payment for these things; upon which the tailor very naturally asks him what business he has to interfere. The Judge, without telling him that he was the Doctor's brother, which Redding did not know, and that as such he had a right to advise him, jumps up, snatches an iron poker with which a man could be knocked down as readily as with a crow-bar, and for the small provocation of a tailor saying, "you make yourself a little too busy in the matter," ignorant that he was addressing a dignified Judge, the Judge aims a deadly blow at his head, which if not fortunately warded off might have involved consequences to which I must not advert. What does this prove? If it proves nothing else, does it not show plainly that Judge Wilkinson is not quite as mild and forbearing in his disposition as his friend Mr. Prentiss would have you to believe. Did Judge Wilkinson's conduct show that it was his belief men's passions should be subject to the control of law if not of reason? that he was in principle a respecter of the law in this instance? I know it will be argued that there is a wider latitude given to the restraints of law in the southern than in the northern states and a false assumption is built upon this circumstance, that the free use of personal liberty to avenge private quarrels, gives greater bravery to a people. But I have read, I have witnessed, and I believe that the people of New England, a section of this great republic, where you can get no man to fight duels, and where every man throws himself under the protection of law for the redress of his private wrongs, when they have been called into the field for the protection of their country, have shown the brightest examples in modern history of personal bravery and national valor. Show me where men have been more prompt to rush upon the bayonets of their country's invaders than the heroes of New England! Sir, courage and bravery belong to the respecters of the law, which protects every man's rights in a civilized community. Climate in a country of such vast extent as this, may have its influence on men, as it is known to have on the inferior race of animals. You may meet the lion, distinguished for his courage and his power, in the Barbary states, where, conscious of his strength,

you may pass him unmolested, if you are not the aggressor. As you descend to the more southerly latitudes, you meet the leopard and the panther, with whom treachery and ferocity are the substitutes for courage; and when you pass the equator you meet the hyena, the emblem of uncompromising cruelty and without a redeeming quality. Men may in like manner be affected by climate; and he who on the iron-bound coast of the frozen North or on the arid rocks of New Plymouth would illustrate every noble virtue of his nature, not less distinguished for his piety than his patriotism, for his endurance than his courage, and for his generosity than his bravery, when transplanted to the enervating regions of the south may become different and degenerated, trusting more to his interests than to his patriotism, to advantage than to courage, and to concealed weapons than to bravery.

But to resume my review of the evidence: Judge Wilkinson so remarkable for his mildness and forbearance, as a sample of these qualities, aims a blow as I have said before, at the tailor's head, which probably would have killed him had he not warded off the blow with his arm in a manner to give great offence to Mr. Prentiss, who cannot see the propriety of a tailor grappling with a judge to prevent a repetition of blows that might break his head. The little tailor, however, did grapple with the Judge, and dragging him to the side door he falls with his adversary out on the pavement. The tailor though small, being strong and active turned the Judge under, and as he did so, Murdaugh hallooed out, "kill the damned rascal," a command which the Doctor was about to obey, and when he was within a couple of inches of plunging his dirk into the tailor's heart, Mr. Redmond caught the Doctor's arm. But for that interference it would have been the last of Redding's career. Mr. Murdaugh had hallooed out to the Doctor, "kill the damned rascal!" and in the next breath, "part them—part them!" This is easily accounted for. When he saw that Redding by Redmond's interference had gained the advantage, he perceived that the tables were turned, and fearful of the consequences, became as impatient to have them parted as he had before been anxious to have the tailor killed. Well, they are parted; and when they get up, Doctor Wilkinson still has his knife drawn; Mr. Murdaugh has his knife drawn; and the Judge has his favorite weapon, the poker. The little tailor's courage, notwithstanding this formidable array, is up, and he steps forth, a David before Goliath, and offers to fight the whole three of them if they will lay aside their weapons. This I think, however, was a mere *brag* with the *poker players*; for I do not believe he could have done it. Five witnesses swear that both Doctor Wilkinson and Mr. Murdaugh had out their knives. Several concur that Doctor Wilkinson re-entered the store with his

knife drawn, demanding his \$100 bank bill. All agree that he got it, and many agree that when he and his companions left for the Galt House, two went away exhibiting their knives and one rejoicing in the poker. The knives, to be sure, have been identified as *white handled knives*. Mr. Prentiss in that able speech which you have all heard and admired, and which, it must be admitted, like a West India tornado, swept through this house carrying every thing before it, even to the reason of many who heard it, seemed to think that we had some particular fancy for the handles of the knives, because they were white handles. He thought we dwelt uncommonly on the whiteness of the handles till like spectres they were continually flitting before our visions. With all this poetical or forensic coloring we have nothing to do; we only identified them, and the gentleman has failed to contradict us by proving that they were black, green or red.

We have now, gentlemen, traced a small portion of this affair at the tailor's shop. In what occurred there immediately after what has been mentioned, we find the following facts established. Mr. Redding swears that he was advised to enforce the law against these gentlemen. The principal officer of police, the city Marshal, is usually to be found about the Mayor's office or jail, from the peculiar nature of his duties. Mr. Redding proves that he and Johnson went towards the Mayor's office and looked for the Marshal at Hyman's and Vacaro's coffee house. Not finding him there, they went on to the Mayor's office. They applied at the Mayor's office to Mr. Pollard, clerk of the City court, and told him that one of the gentlemen was named Wilkinson, and that the names of the others they did not know. They were told by Mr. Pollard that they should have the names; or if they wished they might have a blank warrant to be filled up with the names when ascertained. This Redding declined upon being told, that if he could meet the Marshal he could arrest the parties without a warrant. Redding and Johnson proceeded to the jail in search of the Marshal. Not finding him there, Redding returns by Market street, at the corner of which, he met Rothwell, near his residence. As he tells Rothwell, his brother-in-law, the nature of the affair, Rothwell goes along with him. And here I must remark, that to come down to Market street from the jail is the shortest way, though my friend, Col. Robertson, thinks that a man may go round by Jefferson street a few hundred yards out of his road by the way of a short cut. But Redding being but a plain man not given to sophisticated deductions, believes the nearest road is the shortest cut and took the shortest cut by Market street, where he met Rothwell, as I have said, and told him what had occurred. He did not ask his brother-in-law to go with him; but his brother-in-law did think proper to accompany him.

There was no Bill Holmes—no Marshall Halbert—no Billy Johnson—no one but Rothwell accompanying Redding. Mr. Graham swears that there was no one with Redding but Rothwell, when he met them near the Galt House. Where was this terrible array of giants and Patagonians of which we have heard so much? Why, no where to be sure; the gentlemen have only drawn largely on their imaginations. As Sheridan once said of Dundass, they are indebted to their imaginations for their facts, though I will not go so far as to say of my sprightly friend Colonel Robertson, or my brilliant friend Mr. Prentiss, that either is indebted to his memory for his wit.

Jackson swears, indeed, that he heard propositions made of going to the Galt House to give the Mississippians a beating; yet Graham swears Jackson would always lie a little. This Jackson whom we have shown to be unworthy of credit, swears to that being a fact which is contradicted by Redding, by Johnson, and by Craig whose credibility is unimpeached and unimpeachable. But it seems Mr. Prentiss takes peculiar exceptions to Bill Johnson, because he uses strange figures of speech and low and outlandish tropes and metaphors. Well, the gentleman ought not to blame poor Johnson for imitating his betters in the arts and graces of oratory. I suppose he has been reading the newspapers in which the reported speeches of the most eminent members of Congress are recorded, and he finds one distinguished gentleman charges a party with being like a greasy pack of cards all spotted and marked and shuffled together. Another young aspirant compares the Secretary of the Treasury, a dignitary old enough to be his father, to a she-bear, running through cane-breaks and dropping her cubs at every step; and yet Johnson is blamed for his figures, if he ever used them, of hides full of shucks, and skinning of sheep. I thought Mr. Prentiss who so lately returned from Congress would have admired Bill Johnson for being so apt a scholar, like that classic personage, Zip Coon, in picking up the new and approved style of tropes and metaphors now so fashionable in the places which he himself has made resound with the aptness of his illustrations.

Gentlemen, I had got to this place in the affair at the Galt House, where Redding and Rothwell were seen unaccompanied by any one entering that hotel. Mr. Redding says, when he went into the bar-room he looked over the register and called for the names. Scarcely had he got them when Judge Wilkinson entered and stepped up to the counter to take a drink of water. Redding addressed him thus;—"Sir, I believe you are the gentleman who struck me with the poker in my own house this evening." If Judge Wilkinson was sorry for his imprudence, why did he not then say it was in a hasty moment and upon reflection he felt that he was wrong? Could Redding

have resisted the ingenuousness of such an answer to his enquiry? Could he have harbored for a moment longer any irritation for an acknowledged injury? But what did Judge Wilkinson say or do? Why, he heaped insult upon injury by an aristocratic allusion to the tailor's profession. "I will not," he replied, "fight or quarrel with a man of your profession!" Now, although I agree with Mr. Prentiss that there is nothing disgraceful in a profession, and I think the Poet has expressed himself with scarcely less felicity than Mr. Prentiss on the subject:—

Honor and shame from no conditions rise;  
Act well your part, there all the honor lies—

And as Burns says:—

The heart's at the part, ai  
That's right or wrang.—

yet, we cannot help imbibing with our literature and our sentiments many trifling prejudices from the mother country where aristocratic pretensions have too successfully attached disgraceful notions to certain pursuits of industry, and among these, the profession most sneered at by the would-be wits of the last century, is that of a tailor. And although a man of that profession here may justly feel that he is as respectable, and follows as respectable a calling as any other man, yet when he thinks those old sneers are levelled at him as an insult, he naturally resents it with the indignation of an honest industrious and free citizen, not bound by a servility unknown to us, to succumb to him who dares to utter it.

There is I fear a principle growing up amongst us inimical to our Republican institutions—a principle of classification favorable to aristocratic distinctions. We have our bankers, lawyers and doctors, arrogating one rank in our society; the statesmen, heads of departments and officials, another. Our mechanics and those who toil by the sweat of their brow to produce our riches, are cast into the shade; and knowing as they do, that such an attempt however noiselessly it is made, still exists palpably, is it any wonder they should be sensitive to every whisper that is breathed to mark the invidious distinctions? An apparent unimportant word may wound deeper than rough language. Call a man a knave, and he may forget it; but call him a fool, and he never forgives you. Call a young lady a coquette, and she may pardon you; but tell her she is ugly, and she will never abide you the longest day she lives. Tell a tailor he is a botch, and he may not even get angry with you; but sneer at him about his *goose* and his *profession*, and you insult him, though the words in themselves are harmless. It is the allusion to prejudices that have existed, which carries the poison of insult in its barb. Sir, we must not disguise the fact, that there is a line of demarkation drawn by the proud and arrogant between themselves and those who live by the sweat of their brow;

between the comparatively idle, who live but to consume; and the industrious, who work but to produce; between the drones of the hive, and the laboring bees. And to which pray is the country in its strength, prosperity and wealth, indebted for its teeming productiveness? To which for her energy, enterprise, protection, genuine patriotism and celebrity in national or municipal times of danger? Go to Louisville when a portion of the city is enveloped in flames, and you will see a thousand mechanics rushing into the devouring element for the protection of property, while the lawyer and the judge, and the haughty aristocrat walk about as spectators with their hands in their pockets. The mechanics compose the moving power and labor-working machine upon whose industry we all feed and fatten. Their labors are the wealth of the country, and when we cease to honor and cherish them, we poison the springs of our own invigorating prosperity, and cut off the sources of our own enjoyments. Do we treat them with gratitude when we taunt them with epithets, which they esteem derogatory or insulting? Are we to treat them thus in the baleon days of peace; and when the thunder-cloud of war gathers around our course, with a monstrous pusillanimity, fling ourselves into their arms as our only hope and rescue? Has not the history of our country shown, and will it not show again, that when the storm of invasion ravages our coasts, our safety is to be found alone in the strong sinew and ready arm of our laboring population? Where then are your bowie-knife-and-pistol gentry, your duelists and your despisers of the man who lives by the sweat of his brow? Sir, they will be found cowering and lurking where they may snuff the battle afar off, and hide their once lofty heads in ignoble safety. But I will not consume your time with recitals which may be found in every page of our history. I shall return to the evidence in the case before you.

Mr. Everett is told by Mr. Sneed that there is likely to be some difficulty. Mr. Everett goes into the bar and by some indications to the Judge, meets him in the passage and takes him to his room, where they find Doctor Wilkinson and Mr. Murdaugh. Judge Wilkinson relates to them what had happened. The Judge having made this relation, asks Everett to provide him with pistols. Why? For what did he want them? Was any one attacking them there or likely to do it? They were safe in their room. They could only want pistols for the purpose of descending and making the attack themselves. But Everett is asked to provide pistols. He said he would try, and with that avowed purpose left them. He had not been gone exactly fifteen minutes in the opinion of some—in the opinion of others scarcely ten, when Judge Wilkinson with this lower-country-tooth-pick, [taking up the bowie knife] not trusting this time to the more merciful weapon with

which he had been practising, the tailor's poker; with this lower-country tooth-pick started down prepared to use it. Did he know Rothwell? Did he know any but Redding? No man had accosted him but Redding. Why then did he come down with this terrible implement of murder? Why, Sir, just exactly for this reason, that he had been mortified at the result of what happened at Redding's store. The judge of the land had been turned over by a tailor; he had been bearded and abused by a tailor; and he provided himself with his bowie-knife and went down to have another deal with that tailor.

Mr. Prentiss seems to think the Judge had a right to go down to his supper. Why, so he had; but he had a right to wait for the bell to ring. He had no right to eat his supper before it was served up—no right to take his bowie-knife down to the kitchen and terrify the cooks to allow him to devour the supper while it was cooking. And had the supper been ready, there were table knives wherewith to carve his meat, and he had no right to carve it with a bowie-knife. But the supper was hardly cooking when he went down. The bell had to be rung over the private passage up stairs before it was rung below, and when rung below the folding doors had to be thrown open. But the bells had rung no where and Judge Wilkinson, Dr. Wilkinson and Mr. Murdaugh came down before any bells were rung; therefore it was not to supper they came down.—Which table had Judge Wilkinson been in the habit of going to? the large table or the ladies' table? There is no proof that he and his companions boarded at the large table; and it is known that many gentlemen as familiar with the house as they had been, prefer the private or ladies' table. We have every reason to believe that was the table at which they boarded. The entrance to the room where that table is kept is not through the bar-room. One entrance to the large dining room, is, indeed, through the waiting room, and there is a bar in that waiting room, at which many gentlemen who are not pleaders, become suitors, make motions, and put in their pleas. I sometimes make my appearance at that bar, but I am not summoned by the attachment of the bottles. I go to hear the politics of the day—for, although I have long since quit the field, I cannot be cured of the curiosity to know what wrangling is going on among the little juntas in every village as well as the mighty ones of Congress.

When these three gentlemen got into the bar-room, Mr. Redding was at the counter; Mr. McGrath was inside of it; Mr. Reaugh was at the fire. Some say Mr. Redding came in immediately after the Judge. You must expect that out of twenty witness no two will agree in all the facts; but in a transaction like this, where several fights were going on—where in every corner a man was bleeding, or dying or suffering—that no two men could see

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every thing or any thing alike, is to be expected. But, gentlemen, by collecting all the evidence together, contrasting, comparing, and justifying one by another, we can arrive at the facts of the case clearly and beyond the probability of doubt. We can arrive at them with as much certainty as we can at any other set of facts. And from this manner of collating the facts, I am enabled to present them to you without fear of contradiction.

One of these facts is that Judge Wilkinson walked across the bar-room, some twenty five feet, when he came in. Mr. Trabue, a man whose evidence is to be depended upon, seems assured that when Judge Wilkinson came in, he walked three or four times across the room, and then stood a while with his eye fixed upon Mr. Redding, his foot advanced, and his right hand behind in his coat pocket, and, I make no doubt, with his hand grasping the handle of this very bowie-knife. At that moment Mr. Murdaugh went up to Redding. I will not say, with one of their own witnesses, that in going up to him, he rattled like a viper; but as he went up he addressed Redding, saying, "I understand that you say I drew a bowie knife on you in your shop this evening? If you say so you are a damned rascal, or, liar!" And as he said so, he opened his knife and elevated it, as one said, or held it down, according to another. Yes, he accosted Redding in the most insulting terms and threw open his knife at the same time. Is there any witness who has said Redding accosted *him* in an angry manner? One person said of the knife—Lord, how it gleamed in the candle light!

The most warlike nation the world ever saw, was Sparta. When the Spartans prepared for battle, they polished their arms to glisten in the sun. They washed their clothes clean, combed their long black hair, and sang the song of battle. I have no doubt, Mr. Murdaugh, if in the ranks, would have done the same. I make no doubt he would be the last to run. I make no doubt he would have been amongst the foremost to make his gleaming blade glisten in the sun. The highest evidence of a man's dexterity and intent to use his weapons, is the high polish he gives them, and the high state of preservation in which he keeps them for use. Of Murdaugh's dexterity in the use of his knife in the work of death, we have unfortunately too much proof; of his disposition to use it, we have the evidence of the high order in which he kept it for use, even to that state of Spartan polish, which made it gleam in the candle light, as the sword of the Spartan would glisten in the sun.

We are told Meeks was determined for a fight; yet Oliver, whose friendship for these gentlemen seems of the most ardent and disinterested kind gives up, to Meeks, his knife, after having so easily obtained possession of it on the small pretence of picking his nails. He had been invited by Oliver to

drink at a "Saloon," opposite the Galt House. They dignify these establishments now-a-days by the high sounding title of "saloons;" but when you enter one of them you find it the vilest grogery in the world. These dignified grogeries exist to a shameful extent in Louisville, and why? Because the politicians of Louisville are too busy with their unimportant bickerings, or too truculent to put them down. They are the strong holds of the voting interests of Louisville; and the truculent politicians, who are ready to sacrifice every principle for the triumph of party, court the coffee-house-keepers, and bend in supplication for their election to the inmates of the grogeries. Even the municipal government is either influenced by paltry mercenary motives in its avidity for the revenue of licences, or it has not the nerve or public spirit to grapple with the monster. Talk of our constitution being the greatest, the purest, and the most efficient on the face of the earth! Yet, here is an evidence of its working in a duplicate government. The most destructive of vices, because the parent of most, is licensed, encouraged, fostered, pandered to, by politicians, and through their truculency, by the very local government itself, as if the misery and debasement of the community were more the end and aim of their rule than the encouragement of virtue, industry, sobriety and rational enjoyment.

We learn that Meeks was unknown to many; a slender, small, and weakly man, with a bit of a cow-hide, the lash of which some one says was knotted. From what we learn of this cow-hide, I verily believe it would take at least five hundred knocks of it to kill a man—and I doubt if he could be well killed, after all, even with five hundred knocks of it. Meeks, unfortunately for himself, stepped up to Murdaugh, and said, "Yes, you are the d—d little rascal who did it." In reply to this, the very first lunge Murdaugh made at him, severed a vital artery and caused his instant death. I am no physician, and know not technically what effect the cutting of that artery may have; but I believe it to be as deadly as if the brains were blown out, or the heart pierced. A man stabbed through the heart no longer lives or breathes but he may stand a minute. Meeks fell, and in attempting to resume his feet, as he leaned on a chair, pitched forward upon his face, and when examined, he was dead.

When did Rothwell strike Murdaugh? Not till Meeks was killed. Then, it is proved, Rothwell struck with a cane, and Murdaugh was beaten back, and at that instant the tide of battle rolled on to the right corner as you face the fire, and then Rothwell was seen loosing his grip of the cane in his right hand, and he was seen endeavoring to resume his grasp of it. General Chambers thinks it was Doctor Wilkinson whom Rothwell was beating at in the right hand corner, but every one else says it

was Murdaugh, and it is of course evident the General is mistaken. Every one of the witnesses swears that Rothwell was engaged with Murdaugh in the right hand corner, while Holmes was engaged with Doctor Wilkinson in the left hand corner. Let us now consider the wounds received by Rothwell. Dr. McDowell says, the puncture in Rothwell's chest might be made with this knife carried by Murdaugh. The skin by its elasticity might yield without having an orifice as large as the blade afterwards apparent. Who gave Rothwell that wound? Why, Murdaugh, and no body else. This accounts for Rothwell loosing the grip of his stick or cane. The moment this knife penetrated his chest on the right side, that moment his arm became paralyzed, and he could not hold his cane. He caught at it, but he did not use it after. Just then, Judge Wilkinson came up behind with his bowie-knife in his hand, and General Chambers says, he saw him make a lunge at Rothwell and stab him in the back. If two men are engaged in a fight, one with a dirk knife like this, and the other with a stick, in the name of God let another with such a bowie-knife as this stand off; but if he must interfere on behalf of him who has the deadly weapon, and against him who has not a deadly weapon, let him do the work of death front to front, let him stab in the breast and not in the back. But, to come up behind and to stab *him* in the back, who is already overmatched by his opponent in point of weapons, evinces a disposition which I shall not trust myself to dwell upon or to portray. Ossian, speaking of Cairbar's treachery, says,—

"Cairbar shrinks before Oscar's sword! *he creeps in darkness behind a stone—he lifts the spear in secret—he pierces my Oscar's side!*"

By this time Dr. Wilkinson was down in the left hand corner and Holmes over him. The fact is, Holmes was the only man that knocked the Dr. up against Trabue, though Halbert boasted of having done it. It was only a boast in Halbert, for I believe he goes over his foughten-fields more at the fire-side than on the battle-ground. In the language of Dryden, speaking of Alexander:—

The King grew vain;  
Fought all his battles o'er again,  
And thrice he routed all his foes, and thrice he  
slew the slain.

[It was now five o'clock; and Mr. Hardin requested an adjournment, as it would probably take him two hours more to conclude his argument. To this the court assented and an adjournment was made to half past seven next morning.]

#### FIFTH DAY.

Friday, March 16th, 1839.

The court resumed the trial at a quarter before 8 o'clock. Early as the hour was, there could not have been less than from one to two hundred ladies in the gallery, and upwards of a thousand men in

the arena of the court. After the jury-call and reading of the minutes, the Court required Mr. Hardin to resume his argument. Mr. H. commenced at 8 o'clock and spoke without intermission for upwards of two hours.

Mr. Hardin:—Gentlemen of the jury, I would endeavor to resume the few remarks on the evidence which I offered yesterday, as near the precise place where I left off as possible; if I did not know that in the present case such particularity is not so requisite as in the case cited by John Randolph, who once told of a man that was so precise that he could if interrupted and called off in the middle of his dinner by the sound of a horn, on resuming his seat some hours after upon re-sounding the horn, take up his dinner exactly at the identical bite where he had left off. I am not quite so particular and shall probably recapitulate some of the evidence I have already gone over.

Yesterday evening I endeavored to give you the law and the facts of the case as nearly as possible, and as far as I went. I shall now repeat that you are not to take as facts all that may be sworn in a cause. Although witnesses may be men of undoubted integrity and veracity, yet all they state are not facts. They are fallible beings and likely to misconceive and misinterpret facts without any intention of doing so. We are to ascertain the facts from the mass of evidences, and judge of each witness' competency by contrasting his evidence with that of others, and when it agrees with all or the majority of witnesses, we may safely infer he is right. I endeavored yesterday to examine the facts that occurred at the tailor's shop, for the purpose of showing the ill blood fomented in these gentlemen's hearts against Redding. I then showed that they acted in concert, and provided themselves with what weapons they could, not being able to get all they wanted, and how, upon a small occasion they were prepared to use these weapons. Indeed, there seems to be no witness as to what occurred when Judge Wilkinson remained in consultation with his companions in his bed-room.

[Here Mr. Hardin made a short recapitulation of the statement he had gone over before, so nearly alike in substance that it is conceived unnecessary here to repeat it. However, some of these points elicited observations from Mr. Hardin, new or important, which it may be necessary to give; the repetition therefore of such points of evidence will be excused.]

We may judge of the shifts the defence is driven to when it is forced to rest upon such witnesses as Oliver, a man whom no one in Louisville would listen to, and Jackson, the pharisee, who talks of religion without a spark of it in his heart, and who is discredited by men who, as witnesses, are unimpeached.

If Judge Wilkinson, Dr. Wilkinson and Mr. Murdaugh, were known to be frequenters of the bar before meal times, why has it not been proved by one of their witnesses? That not being proved, I have a right to assume that it could not be done, because it was not the fact.

Next I have to ask, why these gentlemen came into the bar-room provided with arms? Could it be with any other design than to run Redding out of the room? Were they going into a room where they commonly resorted? It is evident they were not. Did they go there on their way to supper? It is evident they did not, for supper was not near being ready.

What disposition for eating a supper merely, does it show in Judge Wilkinson to pace the room three or four times, and then fix the eye of destruction on Redding, while his purpose kindles and he grasps his bowie knife behind in his pocket? What more eagerness for supper does Murdaugh exhibit in going straight up to Redding, rattling like a viper and insulting him with being a liar? Sir, I care not if a man go into any crowd and before an angry word is used to him, he goes up to as meek a man as Job himself, and says to him, "you are a damned liar, or rascal," and flings open his blade to inflict mortal injury as his words indicate; if the person so accosted strike his insulter, it is not surely any great wonder. And yet Redding did not strike a blow. Mr. Murdaugh may say, I kept within what I thought was the safe side of the law—I approached with my drawn knife—insulted the person to draw on the attack from him, that I might have some excuse for using my knife in the manner in which I came to use it at any rate. If any man come up and call you a damned liar, or a rascal, and spring open his knife in the attitude of striking, should you strike or slay such an assailant, would you not be excusable? But Col. Robertson attributes to an act of this kind, nothing but a manifestation of innocence and high spirit. The Colonel is really a gallant man, and judges of others by the fire and chivalry raging in his own breast. You must not laugh, gentlemen, for if you could look upon the volcanic mountain, though you would see its head capped with snow, you would find its bosom, like *his*, rumbling with fire, smoke, and brimstone. In former times, the highest honor known to a Roman soldier was to have saved a man in battle. But here it is argued that if a young aspirant to fame pinks and kills his man, he is to be sent home to his parents in honor, crowned with the chaplets of victory. Nay, it is believed, if Bonaparte, in his youthful prime, in his Italian campaigns, had had Murdaugh by his side he would have confided to his ready and unerring arm the execution of many a hardy adventure. Col. Robertson may say what he pleases, but I say it was Murdaugh commenced the assault; and that all fighting

done by him was in the wrong. All fighting done on his account was in the wrong; because he had commenced in the wrong.

Well, gentlemen, as I remarked to you yesterday, when I stopped, for I am now returned once more to that point, Murdaugh had given the first provocation, had killed his man, had stabbed another to the death, when Judge Wilkinson stepped up and gave Rothwell a stab in the back, while engaged with and probably receiving the stab in his chest from Murdaugh. Yes, gentlemen, a third man comes up and lunges this beautiful little weapon into Rothwell's side, and starts back! Sir, if men are engaged with deadly weapons, part them if you can; but do not come up behind them and lunge a bowie-knife into the vitals of one, and then come into a public court and demand of a jury not only to acquit you but to do it with shouts of, "Glory, Glory, go, go!" And yet, gentlemen, this is the polite invitation given to you by Mr. Prentiss, to acquit such a man with acclamation. When engaged with a man who has only a cane no bigger than his thumb, his opponent gives that man a deadly stab in the chest which paralyzes his arm—a third person, Judge Wilkinson for instance, comes up *behind* and stabs the paralyzed man *in the back*, it is, no doubt, high time for you to be called upon to mark your approval of the deed by shouts of acclamation. Mr. Prentiss by way of winning your favor with complimentary allusions, thinks Kentucky should no longer be called the "bloody ground," because the river Raisin has carried off the palm in feats of human butchery. But I think the Mississippi gentlemen, of Vicksburgh, have bidden fair of late to obtain for that part of Louisiana opposite their city, the palm of being the "dark and bloody ground." I suppose in the far famed Meniffee duel with rifles, if some one had stepped up and lunged a bowie-knife into the vitals of one of the combatants, the shouts of acclamation that would have arisen in that quarter of the world, would have resounded to the uttermost ends of the earth.

Doctor Wilkinson, by this time became engaged with Holmes. Holmes is a stout and large man; but his size has been greatly exaggerated. Like the Patagonians, the first discoverers thought them ten feet in height; the next voyagers only 8; and the next but 6. I recollect reading of Captain Smith, that when he first explored the interior of this country, on his return, he represented the inhabitants as all Goliaths, six cubits and a span in height. Yet, subsequently, more matter-of-fact men found they were only miserable and cowering Indians of ordinary dimensions. In this manner appearances are magnified.

We are asked why Holmes is not here? We echo to the other side, "Why Holmes is not here?" Our

answer is, because he was not to be had, being a pilot down the river and not within the control of the State's Attorney or any process issuing from him.

Mr. Trabue proves that Holmes knocked Doctor Wilkinson against him, and that Holmes followed up his blow and knocked the Doctor down. Another witness proves that Doctor Wilkinson had his knife in his hand on the floor, and Redding proves that he found it on the floor and it had blood on it. We have then evidence that all three were using their knives for the shedding of blood. Sir, among other appeals made to you for acquitting them, you are told as a set off, that, there is no state in the Union on which you are more dependant than that of Mississippi. They take their cotton South and receive either through shipping agents, or drafts direct, their money for it from the merchants of Great Britain. True, Kentucky gets some of these dollars from the Mississippians for what they think better than their money, our produce, or they would not buy it. We, in the rounds of trade, pay these dollars, or what represents them, to the Liverpool merchants for merchandise that we think better than the money. The Liverpool merchants in the next turn of the wheel, pay the same dollars back to the Mississippians for their raw cotton, and the Mississippians are nothing loth to take our produce again for the same dollars. And after several twists of this kind, when we get them back and recognize one of them as an old acquaintance, we may say, how do you do friend dollar, I am very glad to see the face of an old acquaintance, step into my pocket and warm yourself, I always give shelter to a travelling friend. We are proverbially a hospitable people, and never refuse a night's lodging to a dollar, or its liberty to travel further next day upon leaving us an equivalent for what we lent it. But to be serious, are we not all dependent on each other? I know this and cannot admit that we owe more to Mississippi than Mississippi owes to Kentucky: and why there should in this case be made any parade about our indebtedness to that state, not founded in reality, is for you, gentlemen, to weigh

To resume the facts of this case; what does Judge Wilkinson do? He stabs Holmes in the arm; but he is not indicted for that. He stabs Rothwell when he is engaged with Murdaugh in the right-hand corner; and again, when in the left-hand corner, standing over Holmes, and trying to get him off his own brother. Rothwell had been disabled by two stabs.—Judge Wilkinson, standing at the dining room door, when Rothwell was saying nothing, except in mercy trying to persuade Holmes to spare Doctor Wilkinson, comes across the room to the opposite door, finds Rothwell's back turned to him, and then makes the last, the second thrust of his bowie-knife into his victim's back. Mr. Robt. Pope says, I saw

Rothwell's back to Judge Wilkinson, when the Judge stabbed him—up to the very handle. I ask you, gentlemen, I speak to you not in language other than the broad and naked truth—is there any witness denies this? Every one who knows Robert Pope, knows that he would not state what he did not know to be the fact. We know that each and all of these wounds contributed to Rothwell's death. The last stab is given by Judge Wilkinson to Rothwell; Doctor Wilkinson and Murdaugh retreat out into the passage, and fight their way to the foot of the stairs. I care not what was done there; it was done after the offence previously committed. Suppose Oldham had shot one of them, and not missed as he did; suppose Murdaugh had been knocked down; and suppose Judge Wilkinson received blows in the passage, does it lighten the offence previously committed? I care not what took place, when a man has killed another. When making his escape, I care not how many guns are fired at him, how many rocks thrown, because it alters not his previous offence.

If there is any evidence that any one in the bar-room laid a hand on Judge Wilkinson, who has proved it? Is it not plain, that any bruises or injuries he did receive, were received in the passage.

Mr. Prentiss said he was willing to stack arms with the Kentuckians. What arms had they? They had a cow-hide whip! We hear of a cane, which he thinks may be conjured into a sword cane. Mr. Holmes, indeed, had his fists, but he could not stack them. We are told that Oldham had arms, by a witness who viewed the scene from the outside of a window, like one of the venerable birds perched on a dry limb eyeing the slaughter with a prospective instinct—one of those remarkable birds, renowned alike for their gravity and great stillness. We have heard a good deal said, and well said, if true, about Oldham. That he was unsteady: that he cast his eye to his counsel for relief. Yet we really saw nothing in his conduct to warrant his being called perjurer, scoundrel, coward and rascal; and here I must remark that this very talented young gentleman, Mr. Prentiss, in using such epithets to a witness without even a shadow of justness in the application, warranted me in saying that though I admired some passages in his speech, yet, others, I should feel bound to denounce as unworthy alike of his profession and of his character.

No man in this state can boast a prouder ancestry than that very Oldham, whom it has been attempted to brand as odious and infamous. They have been among the earliest settlers and the most esteemed of our citizens—trusted with command in our army, and venerated on the judicial bench. And has a man sprung from such an honored stock, no pride in upholding his name—no feeling to rouse his indignation, when epithets as gross as they are ground-

less, are poured out to tarnish his reputation for the paltry purpose of influencing a jury to discredit his testimony, and to warp their judgments from the straight-forward path of truth and justice? What proof has Mr. Prentiss to sustain the course he has taken? Sir, there is not a shade of proof. The gentleman is indebted to the fertility of his fancy; and his best friends must regret that he has not, in this instance, cultivated that productive soil for some more praiseworthy object than an ignoble and disgraceful crop of baneful, destructive, and loathsome weeds. Does the gentleman think he is one of the Angels appointed to pour out the vials of wrath? Has he not indulged in pouring out gratuitously his vials of wrath on Mr. Redding, who could not escape. Redding is stigmatised as a murderer, to be haunted by the ghosts of the slain at his nightly couch. Yet what was his offence? He raised his arm to ward off the blow of an iron poker aimed at him by Judge Wilkinson! He had profaned a Judge's person on this trifling provocation by seizing him, dragging him to the door, and turning him under! "Oh you scoundrel," would Mr. Prentiss exclaim, "why did you do that?" He had retorted upon Judge Wilkinson when taunted by him about his profession; and, worse than all! he did not, when the killing was going on, stay in some convenient place to be killed? "Why did you not, you coward, rascal, murderer, perjurer, and so forth, *turn your back* to be stabbed *with safety*? Why did you not stand up with your face to the breeze, when the sirocco swept along, carrying death on its pinions? Why did you fall on your face, and let the pestilential blast pass over you? Why did you not breathe till it was gone? You, and your friends, have offended us by your want of submission, and now you aggravate your offence by coming here to testify against us."

Really, it is astonishing they are yet alive! But it will be more astonishing, perhaps, when it is told that they will return to Louisville, and there stand, in point of reputation, just as they stood before these slanders were concocted, digested, and spewed upon them. It will turn out that they are yet unpolluted and unscathed. The same protecting Providence which carried the Israelites through the Red Sea, will protect even these persecuted and wronged few.

Gentlemen, I have endeavored to trace facts as far as I have gone, with minuteness, and having presented these facts to you, it is for you to determine whether they do not establish these conclusions. When the fight occurred in the bar-room, it was brought on by these gentlemen intentionally: if they brought it on, did they fight in their own defence, or because they had drawn the conflict on themselves: could Meeks have inflicted death with a cow-hide, or Rothwell with a walking stick, so as

to render the killing of them necessary or justifiable according to the true spirit of the law?

But here there is a proposition of law advanced by Mr. Prentiss, which I must combat. He says the law recognises that the point of resistance unto death, begins where a man himself believes the point of danger ought to be fixed. Then we have no law at all—we may burn up our law books!—this revokes all that they contain on the subject of homicide. There are two men engaged in a quarrel; one as brave as Cæsar—the other as timid as a hare; one kills the other, when the quarrel has arrived at a certain point. The brave man, if he were a Marshal Ney in courage, is to be hanged, because he had no fear of his life when he killed his adversary. If the timid man is the survivor, he is to be acquitted with acclamation, because of his cowardice, which made him imagine danger where there was none.—Thus cowardice and rashness are to be rewarded and cherished, and bravery and forbearance punished with an ignominious death. Is it possible, you, an intelligent jury, can be imposed upon by such sophistry? Is there so low an estimate of your understandings as to suppose it?

A. is tried and acquitted, because he is a base coward, and apprehends danger at a point where there was no danger at all.

B. is tried for precisely a similar homicide in every particular, and because he is not quite as big a coward as A., but apprehends some danger, is to be found guilty, and sent to the penitentiary for a term of years proportionate in duration to his lack of cowardice as contrasted with A.

C., for precisely a similar homicide, because he is incapable of fear, is to be convicted of murder, and straight-way hanged!

[Here Mr. Prentiss interrupted Mr. Hardin, and explained in substance as before.]

It makes no difference: the same principle is involved.

I knew that I should have to combat this very principle, the moment I saw the hack driving into town with a head peeping out of the window, which head I knew belonged to the shoulders of a certain gentleman from Mississippi. When I was in Vicksburgh, I asked a gentleman how it was that Mr. Prentiss defended so successfully so many notorious murderers, who really merited the gallows? "Oh," said he, "he has hit upon a principle which he calls law, that charms every jury to which it is addressed." I asked the gentleman to repeat the magic words to me. He did so. It was the very principle I have been combating. It is possible that as the gentleman afflicted with this chronic principle, which he belches up with so much advantage to himself and relief to others, is now in the neighborhood of Medical Springs, esteemed so potent by Mississippians, he may resuscitate by a few drinks of the

charming water, a sophism which I have shown to be no longer tenable by any one who values what is healthy and sound, above that which is merely delusive.

Sir, the principle of self-defence does not warrant a man in killing under the name of self-defence, if he is himself in fault by being the aggressor.

Is the principle of self-defence among nations to be carried into effect as justly applicable to the right of self-defence among individuals? In national controversy, the law of nations, an imaginary code of mutual convenience, is referred to, according to the custom of the country, but in a conflict between individuals, there is a defined law, which must be the redressor. A nation with right and justice on her side, may be conquered by another nation in the wrong, and cannot sue for or obtain redress from the wrong doer; but an individual, in a community, may be wronged by another, and can obtain redress, because he has the law common to both, and a superior power to appeal to. Therefore, there can be no dependent analogy between the laws of nations, and the laws of individual communities. There was some crude idea thrown out yesterday that the laws of Great Britain ought not to be enforced here. We are not to be told at this day, that we have any other common law than that derived from the common law of England. The very principles of our statutory laws are dictated by the genius of English common and statutory law, with the exception of such local differences as require local application of principles. If the gentleman could take from us any right to apply the law of England where it would be in point for us, we could by reciprocity, deprive them of any they might most rely upon. Where then, is the advantage of raising such an objection? But it is quite unnecessary to dwell on this point.

I shall now advert to the peculiar necessity enforced upon us of becoming a law-abiding people, if we preserve any regard for our present form of government and constitution. In Empires, Monarchies, and Kingly governments, armies are formed to keep the people in order; but in a Republic, what could preserve the social compact, but the law? The moment you dissolve or dispense with the law, that moment you dissolve all national constitution. Every government, and most especially a Republican government, is bound to protect each citizen in his property, reputation and life. How can a Republican government do it, but by and through the law rigidly and justly administered? Whenever you dispense with the law, you allow men to arm themselves, and to become their own avengers, independent of, and above all law. When they are not only permitted to do so, but to return home as innocent men, what is the effect? Every man will arm himself, and like the turbulent and licensed armed mobs at the fall of the Roman Republic, brutal violence

will reign instead of law; all government will be dissolved, and anarchy and confusion will pave the way to usurpation and tyranny. You must venerate the law, if you would not see such a state of things. If you do not, A. and B. will arm themselves, like the Turk, up to the throat, and kill whom they please out of mere wantonness and sport.

If you go into the Northern States, it is a rare thing if you can find a man in ten thousand with a deadly weapon on his person. Go into other states that shall be nameless, and you will hear of them as often as of corn shuckings in an Indian summer. Go further south—to Arkansas or Mississippi, for instance, and though you would be a peaceable man, shuddering at the name of a tooth-pick in the north, in these states you may arm yourself to the teeth, and track your steps in blood, with impunity. Why is this, but from the relaxation of the laws that are elsewhere enforced and obeyed.

I was down the river lately, and it was pointed out to me where the Black Hawk had blown up and killed her scores; to another place where the Gen. Brown had blown up and killed her hundreds; to one spot on the shore where two gentlemen blew each others brains out with rifles; to another, where the widow somebody's overseer was butchered; to another, where the keeper of a wood yard was shot for asking pay for his wood; to another, where an aged gentleman had his guts ripped out for protecting his slave from cruel treatment.—Great God! cried I, at last, take me back, take me back to where there is more law though less money—for, I could not stand the horrid recital any longer—when every jutting point or retiring bend bore the land mark of assassination, and irresponsible murder.

Why does the law call for punishment? Surely it is not in vengeance for the past, but to deter others from the too free and frequent use of deadly weapons, whether in Kentucky, Louisiana, Mississippi or Arkansas. Is it to be left to the vitiated taste of the brutal few to give tone to the mind of a community in setting up the code of the Bowie-knife against the common law? It was but the other day that in the Legislature of Arkansas, a member on the floor was a little disorderly, and the Speaker, to keep quietness, stepped down, brandishing his Bowie-knife, to silence the ardor of the unruly member; which he did, effectually; for, of all the ways in the world of putting down a young and aspiring politician, whose tongue will keep wagging in spite of his teeth, your Bowie-knife is, I admit, the most effectual. And the Speaker, on this occasion, bent upon having silence, silenced the offender, not only then, but for all time to come. To be sure he went through the form of a court of enquiry, but a life is only a small matter there, and he was acquitted according to the laws of that state.

Coming events cast their shadows before; and

here we have one symptom of that downfall of our own glorious republic, which has been so often predicted, but which it has been reserved for the present generation to consummate: that symptom is to be found in the flash of those deadly weapons carried about and used with such unerring fatality by our legislative sages and judicial dignitaries. As if the next should come from high places too, we have a fatal symptom of our downfall furnished by the corruption of those in office who share in, or connive at the grossest defalcations—the widest system of public plunder, even in our monetary defalcations, ever known in any government. Why should we deceive ourselves with the vain hope that our Republic will boast greater permanency than that of Rome, when we are fast falling into the very track, step by step, which leads to the precipice over which she plunged headlong. That once magnificent mistress of the world marched up the hill of fame and glory with irresistible strides, till she reached the summit and looked around upon the hundred nations in her rule. But, at last, satiated with prosperity, she began to repose supinely upon her laurels, and she permitted herself gradually to relax that discipline and good order, which had been to her not only her shield and buckler, but her bond of union. The people were permitted to fight in twos and threes at first with impunity.—They became accustomed to it, and then fought without interruption in gangs; by and by, mobs fought with mobs, and finally the whole people became arrayed against each other in regular armies, till they had to retire to the plains of Pharsalia, where the doom of the greatest Republic the world had ever known was sealed forever. Are we not relaxing the laws,—which leads to anarchy, and from personal violence to popular usurpation? Are we not relaxing our financial vigilance,—which leads to corruption at the fountain head and from private peculation to public defalcation? Is there no symptom in all this of a great crisis? I tell you again and again, when you can lay your hands on great delinquents, make *them* an example: when you can grasp great defaulters, punish them; then will you more easily check pernicious discords, and restore to its proper tension and tone, the harmonizing power of your laws and your government. Whenever you see men wearing Bowie-knives and daggers—hunt them down as you would bears and their cubs, from whom you can expect nothing but injury. The whole state of Kentucky looks to you this day for justice, for this is an awful investigation concerning the loss of two of her citizens. Two of our fellow-citizens have been murdered, and these gentlemen are here to answer for it. Some of the best blood of the country has been spilled as if in the pen of slaughtered hogs; but because the relatives of one of these butchered men employ coun-

sel to aid the prosecution in developing the truth and guarding against the delusions of sophistry from the greatest array of talent the country can boast, or that wealth unbounded can procure to elude the punishment due to the offended laws, you are told to take but a one-sided view of the evidence, and to decide at any rate against the paid advocate. I have not asked these gentlemen what they are to be paid for eluding justice, because I did not consider that a sort of evidence which ought to influence your verdict.

Gentlemen, one question is, are we to tolerate this Bowie-knife system under the false pretence of self-defence? I say, let your verdict act like the axe laid to the root of the tree, and many a prayer will bless you for your timely check of its growth. Many a woman is made a mourning widow, many a child made a pitiable orphan, and many a father childless by the use of this accursed weapon. You have it in your power to prevent the recurrence of such scenes.

We have had an exhibition here in miniature of those Roman scenes which prepared the public mind for the downfall of that great people. There was a vast amphitheatre where the Roman people could be crowned together, and in the presence of some hundred thousand persons of both sexes, a man would be brought into the arena, and a ferocious tiger turned in upon him. He might, or he might not, possess skill or courage to meet the formidable beast and evade the deadly spring; but, if not so fortunate, when the tearing of his vitals was seen, and the cranshing of his bones heard, the solitary shriek of the victim's wife, as it arose upon the air, would instantly be drowned by the acclamations and thunders of applause bestowed upon the ferocious beast, prolonged by its renewed efforts to suck the blood, tear the flesh, and grind the bones of its prey. As we have no amphitheatre, a hall of justice is made to answer for a miniature arena; and as we cannot have tigers, nor men who will submit to be their victims, we have forensic gladiators, and witnesses whose private feelings and characters may be wounded, lacerated, and tortured, to the infinite delight and encouraging shouts and plaudits of a fashionable auditory, while the victim is helpless and gloomy in his unmerited prostration. Yes, it is all for the amusement of enlightened minds, and it is intended, perhaps, for the edification of the rising generation. But, I protest, I cannot yet perceive that it is any more for the honor of the applauders, than it is necessary for the good of the country, that these gentlemen should be honored and glorified for their dexterity in the use of the Bowie-knife and dirk. In the time of public danger, or foreign invasion, is it these Bowie-knife gentry, these pistol men in private life, that mount the breach and face the danger? Are they the brother Jonathans that fac-

John Bull and eye him and his scarlet coats with defiance? Where are they then? Why, like the gnats and musketoos, who glisten in the sunshine and the calm, but when the storm rages and the thunder growls, and the lightning flashes, and the earth is rocked to its centre, they are stowed away from the danger, though they are sure to emerge from their hiding place to annoy with their stings when the succeeding calm and sunshine invite them out once more. Brave men may be voluptuous and effeminate in private life, but in the hour of danger, they put on a new nature. But these fighters in time of peace, clothe themselves in the skin of the lamb in time of war. Sardanapalus, who sat all the while with his women and eunuchs in times of peace, spinning and knitting, and telling long stories no doubt, and sometimes wearing petticoats to make himself more effeminate, when conspired against by Belesis and Arsaces, gave up his voluptuousness, and at the head of his army gained three renowned battles, and though beaten and besieged at last in the city of Ninus, to disappoint his enemies, burned himself, his eunuchs and his concubines, with his palace and all his treasures. Alexander the Great, who was kind, courteous, familiar, and confiding with his officers in private life, when leading the Macedonians, moved to battle like a pillar of fire, irresistible in his might. When the great Frederick led on his brave Prussians, they fought and fell, and fought and fell, as long as any were left. And thus men imbibe the spirit of their chief. If led by a brave man, they are brave. If led by a coward, they are poltroons; and if led by the Bowie-knife and-pistol-gentry, I make no doubt they would be either assassins, or nothing better than musketoos, to be dispersed by the very first report of the cannon.

Even at home, in our own rural districts, we see the influence of leading men on whole neighborhoods. Let a virtuous and enlightened man, whom all will look up to as a pattern, settle in your neighborhood, and every one will partake of his good influence.

Why was it that Nelson, in his death, did more for the glory of his country than ever he did in his life? Because he ascended to heaven in the arms of victory, like Elijah, who tasted not of death.

Let us never dream of selecting for our leaders or our examples, those who have so little moral courage as to trust to Bowie-knives and pistols for the preservation of their manhood, instead of to their blameless conduct in peace, and bravery in war.

Gentlemen, I beg of you in the name of Him who sits upon the cloud and rides upon the storm, mete out the measure of justice to these men, and vindicate the honor of Mercer county. But do not stigmatise your county by doing, as Mr. Prentiss would have you to do by shouting "glory, glory! go, ye

righteous, go to your homes, in honour and in innocence." Whatever you may do, I shall content myself with the conviction that in my professional capacity, I, at least, have done my duty.

I have been deputed by the widowed mother of the murdered Rothwell, and at the instance of his mourning sisters, to implore your justice. I have closed my mission. Between you and your country—between you and your God, I leave their cause.

[Concluded at 10 o'clock.]

The Hon: JUDGE ROWAN then addressed the Jury thus:—

GENTLEMEN OF THE JURY:—

I solicit your already jaded patience, I will not say for a short time, for I know not how long it may employ me, to make the appropriate comments, upon the facts, the law, and the arguments of counsel in this case. I will promise you, however, not to be unnecessarily tedious. I have, in the patience and attention you have already displayed, a pledge that you will bear with me for at least a moderate length of time. My unfortunate clients, (confiding alike in their own conscious innocence, and your intelligence and unbiased state of feeling,) were willing that you might have decided their case without argument; but their will did not prevail. The Commonwealth's Attorney, Mr. Bullock, (in whom I am proud to find the son of honored parents, whose friendship I enjoyed in days past,) has evinced an entire competency to the duties of the station, with which he has been recently honored, and which, permit me to say, he honors, by the commendable candor and high talents, with which he performs his official duties. I regret that I cannot speak in the same commendatory terms of the candor of his aged and very highly talented adjunct. That gentleman represents the *vengeful* feelings of the near relations of the ill-fated Rothwell and Meeks, by whom he has been employed to convict, if possible, the accused. He has just closed a philippic of four hours against them, as remarkable for vigor of intellect, as for vehemence and impassioned zeal. He implores you, with great earnestness, to check (by a verdict of conviction in this case) the habit of wearing arms, and especially Bowie-knives, which, as he says, latterly so much prevailed, and multiplied assassinations throughout our country. He considers the frequency of these melancholy incidents as infallible evidence of the growing degeneracy of public morals, indicating the rapid decline, and eventual subversion of our free institutions.

It is the corruption of the people, he tells you, that saps the foundation of a free government; and he refers to the history of Greece and Rome to confirm and illustrate his doctrine. He asserts that he



has set, and that all good men ought to set their faces against the degeneracy of the times.

Gentlemen of the Jury, I concur with him in the belief, that corruption is the great destroyer of free governments; but do not believe with him, that its prevalence is so alarmingly evinced by the incidents to which he has so glowingly referred. While corruption displays itself upon the surface only of the body politic, it is, like boils on the surface of the natural body, but an evidence of the exertion of the recuperative energies to throw off the pucant matter.

The right of the people to carry arms, is little less than *identical* with their freedom. Without arms, they cannot vindicate their freedom. Without the right to possess, and wear them, they will very soon be without the spirit to use them, even in defence of their liberty. I feel no apprehension for the liberty of my country from that source. I fear nothing from the carrying of Bowie knives—brave men do not fear them, and cowards seldom use them. It is wrong to reason against the *use* of any good thing, from its occasional, or even frequent *misuse*. While our institutions are pure, and especially our Courts of Justice, we have nothing to fear; they will vindicate the just use, and punish the misuse of Bowie-knives or any other arms, which our free citizens may choose to wear. But I can refer him to an instance of the growing degeneracy of morals, more recent, and greatly more alarming, than any, or than all the instances he has named. The recent instance, to which I allude, of alarming degeneracy in the public mind and morals, is the composure, and even complacency, with which we have listened in the temple of justice, to the mercenary ebullitions, and sanguinary efforts, of the gentleman himself. It is in proof that he has received from Mr. Redding, the brother-in-law of the unfortunate Rothwell, a fee of \$1000, to convict, if possible, the accused.

He has not appeared in this case as the Commonwealth's Attorney, nor under any appointment by the government, but as *hired counsel*—hired, too, by the incensed witness, Redding, upon whose testimony mainly, it was hoped and desired by both, to produce the conviction and ignominious death of the accused. Gentlemen of the Jury, bear with me for a few moments, while I also attempt to repress corruption, by denying it the right of access to the forum and to the sanctuary of justice. Let me tear from its face, the illusive and imposing mask under which it hopes to win its way to your favor and exert a bad influence upon your judgment and your feelings. I shall attempt to convince you that his appearance in this case, against the accused, is in contravention of the law of the land and the moral sentiment of all civilized communities—re-

probated, as well by the social sympathies of our hearts, as by the precepts of our holy religion.

And first, of the legality of the gentleman's posture in this case. Our constitution guarantees to every man, a *fair and impartial* trial by a jury of his peers, and proclaims that no man can be deprived of his life, liberty, or property, unless by the *judgment* of his *peers*, or the *law* of the land; by the law of the land, we understand as well the protective, as the punitory laws of our code. The punitory part relates to offences and their punishment. The guilty are punished, and the innocent are protected. In ascertaining and punishing guilt, the laws are construed and applied to the case of the accused by the functionaries of the government. In the making of laws, there are no *hired* legislators, they are all *elected* by the people—so, in the enforcing of the laws, there are no *hired prosecutors*, judges, jurors or sheriffs. I mean *hired* by individuals. They are all *appointed* and paid by the government. The machinery of judicial proceeding is altogether *official*. The agents are all *official*. There is no clubbing of official powers, with that of any other individual, to bear down, oppress, or destroy another individual. The government, instead of assisting individuals to oppress, restrains them from oppressing each other. The government acts towards every man upon the presumption that he is innocent, until his guilt be ascertained by *official agency*, according to the laws of the land. This presumption, that every man is innocent, until his guilt be fairly, and legally proved, is the most essential element in the corporate structure of civil society, one, without which its parts could not cohere, nor exist for a single day—it is not only the cement, but the very *basis* of the civil union. It is the *postulate*, without which the jurist, the moralist, and the divine, would plead, write, or preach in vain—without this presumption, war, anarchy and rapine, would usurp the places of law, order and justice—upon it the whole fabric of civil society stands poised, widening out like an inverted cone, until it embraces those morals and manners, and those sympathies and charities of the heart, together with those radiations of mind, which embellish, adorn and sweeten human life. It is a presumption, which no man can contravene, without poisoning the fountains of human happiness, and thereby proclaiming himself an enemy to mankind. This principle is necessary, not only in the nascent state of society, as its basis, but in every moment of its existence, in every act of its progress—neither law, morals, nor religion, could live without it. In consonance with this great principle, the officers of the government all proceed in reference to the accused. He stands in the Box, shielded, as with the fabled *Ægis* of Minerva, by this presumption, until his guilt is proved, beyond a reasonable doubt; and *fairly* proved. The

Commonwealth's Attorney, the judge, the sheriffs, act upon it. Their oaths for official fidelity require them to do so. They have no motive to act otherwise, they represent the Commonwealth, and she is as much bound to protect the innocent, as to punish the guilty. It gives me pleasure to say that the Commonwealth's Attorney, (Mr. Bullock,) has discharged his duty fairly, faithfully and ably. He has acted upon the presumption, which I have been urging, that the accused should be considered innocent throughout the whole *progress* of their trial, and until its conclusion should evince the contrary. The distinguished counsel, who represents the avenger of blood in this case, has, with his usual ability, and with somewhat unusual zeal, displayed great devotion to the interests and inclinations of his client. He was bound by his undertaking, to have the accused convicted and executed, unless they should be able to prove themselves innocent. His duty and his energies were to destroy them, guilty or innocent. The duty of the Commonwealth's Attorney was to suppose them innocent until their guilt should be ascertained—the duty of the former gentleman was to suppose them guilty until their innocence should be evinced by a verdict of acquittal.—The gentlemen drew, as you will perceive, their motives from directly opposite sources. They acted from different motives, and have thereby subjected the accused to a cross-fire throughout the whole proceeding, and such must always be the case, when hired counsel are permitted to appear against the accused. The appearance of the gentleman in this case, violates the rights of the accused, and especially their great right to be presumed innocent, and profanes the sacredness of the temple of justice, and all the sacred usages and forms of proceeding. It corrupts the streams of justice in their very fountains. It introduces and consecrates the sanguinary and long exploded claims of the next of kin to the slain. Gentlemen of the Jury, according to the rude and barbarous usage of man in his aboriginal state, the next of kin had a right to kill the slayer of his father, brother, &c., without regard to the character of the *occision*—without enquiring whether it had been inflicted justifiably, excusably—by misfortune, or of malignant design. This practice prevailed even in our day among the Indians of North America, and perhaps still prevails in many of their tribes. It crept into the codes of many semi-civilized nations as they advanced from barbarism. To weed out this vengeful and sanguinary principle, and to protect all but deliberate murderers, from its impassioned and baneful effects, the great law-giver of the Jews directed a competent number of cities of refuge to be erected, and so distributed throughout Judea, as to yield to the unfortunate homicide, the requisite security from the next of kin to the slain. The same principle insinuated itself into the code

of England, but as she advanced in civilization, she wisely and humanely tamed and rendered it harmless in the shape of a civil action, denominated an appeal of murder, which she permitted the next of kin to institute against the homicide, and she humanely encumbered the action with such technicalities, and subjected it to such delays in its progress, as rendered it harmless to the accused, by affording time for the subsidence of the bad passions of the avenger, while she, in the mean time, proceeded to give the accused a fair and impartial trial by a jury of his peers. But in the appearance and efforts of the hired counsel in criminal cases, we behold the re-appearance of that odious and exploded principle, in a more aggravated form than it was ever displayed among the barbarians, the Jews, or the Anglo-Saxons. With them, the unfortunate homicide had to fear only the aroused passion of the avenger. It would subside. It might, possibly, be mitigated or appeased; at most, *none* but the next of kin was to be dreaded—none other dare act—but where counsel are hired by the accused, when his vengeance is at its highest (and it is always in that state of feeling that he employs counsel) his feelings are transferred into those of counsel, and *set* (to use a figure from dying) more or less unfadingly, by the size or quantum of the fee. There the accused had the passion of revenge *only*, to fear—here he has to encounter that passion, combined with the passion of avarice, the most sordid of our nature.—But if the avenger might lawfully employ the talented gentleman who represents *him*, and not the Commonwealth; in that case, might he not have employed any given number of our most distinguished lawyers, and advocates, and at once overwhelm the accused by their combined talents, eloquence and weight of character. The limits of his vengeful efforts are not to be found in the law, but in his purse. The security of the accused is no longer to be found in the laws and the institutions of the government, but in his own wealth and the poverty of the avenger. Guilt or innocence, upon this principle, is to be decided not by the constitution and laws of the land, but by the comparative wealth or poverty of the avenger and the accused; and thus, instead of appealing to Heaven, for a decision of guilt or innocence, as in days of yore in the trial by battle, between the avenger and the accused, we shall have the question decided by a conflict of their purses; and thus our beautiful system of criminal jurisprudence will be so subverted and degraded, that the liberty and life of the accused will depend, not upon his innocence, but whether he, or the avenger can bid highest—the one to preserve, and the other destroy it by the instrumentality of hired lawyers.—Who, in competition with each other, for employment will be seen hovering about the avenger and the accused, ready to be employed by either, and so

soliciting employment from both, regardless of the merits of the case, and regardful only of the amount of the fee which may be obtained. Gentlemen, I leave you to contemplate the moral degradation, the wide-spread corruption which would follow the practice if it were to prevail, which I am resisting, as unfair and unlawful. The venerable gentleman has told you that he and myself practised law together, and abreast for near half a century. It is true, and for the first twenty five years of that period, he like myself declined all applications to appear against the lives of our fellow men. His first departure from that course was, as he tells us, in the case of the Commonwealth vs. Smith, charged with the killing of Dr. Brown. That was a long time ago, and I am sorry to tell you that he has been at it ever since, and seems determined to keep at it. I take much pleasure and feel some pride in being able to say that I never have taken a fee or appeared as a lawyer against the life or liberty of my fellow man; and that no amount of fee could, at any period of my life, have tempted me to do so. I refused a fee of \$1,000 to do so when I was not worth that many cents. Apart from its being unfair and unlawful, as I verily believe it to be, I do, and always have, reprobated the practice, because of its tendency to indurate the heart and deprave the moral feeling. But I am now contending that it is *unlawful*; and further to illustrate this point, let me suppose that Redding had given to the Judge, the Commonwealth's Attorney, and the Sheriff, and even to you gentlemen of the jury, the \$1,000 which he has given to his talented lawyer in this case, (I beg pardon of the Judge, the Commonwealth's Attorney, the Sheriff, and of you gentlemen, for the supposition—I make it only for the argument,) to animate them, as he would term it, in the just performance of their official duties. To the Sheriff, that he might summon an *impartial* jury, who would convict the accused; to the Judge to decide most justly and impartially against the accused every question of law, which might arise in the progress of the case; to the Commonwealth's Attorney, that he might invert the presumption of law as to the *innocence of the accused*, and urge, with ardor and zeal, their conviction; and to the jury, that they might evince their love of justice by promptly rendering a verdict of conviction. What would be the public opinion of such conduct in reference to him and those officers who had received his money? Would not all mankind reprobate it, and fasten shame and degradation upon all concerned in a transaction so corrupt?—They certainly would. But let us inquire why they would do so. Would it not be because of the influence of the money upon the fate of the accused? The mere passage of a \$1000, or ten times that sum, by transmission, from one hand, or pocket, to

another is, in itself, and apart from its effect and influence, a matter entirely immaterial and indifferent. It is then *not* in its naked matter of fact aspect, but in the effect, and influence of those matters of fact, that the public reprobate it. The odious effect of money so distributed consists in the pollution which it inflicts upon the pure streams of justice, to the prejudice of the accused. The pith of its effect is in its unfairness towards them. Now if the trial of the accused can only be *fair*, when all the proceedings against them are *legal*, and all the *actings official*, apart and free from all *force* but that of the law, and all motives to action but those of official duty, and if they are entitled by the constitution, to a fair and impartial trial, we can be at no loss to see why the *effect or influence* of money exerted against the accused, should be deprecated by them, and reprobated by all honest men. Money, therefore, cannot be given by the avenger to the Commonwealth's Attorney, (nor to any of the judicial officers,) because of its unfair influence against the accused.—Now what is the difference in point of effect, that is, fairness and impartiality, between giving the \$1000 to the Commonwealth's Attorney and giving it to the very talented and very experienced lawyer to whom it was given, and to whom you have listened for more than four hours. By giving that sum to the *former*, its effect, under the odious denomination of corruption, would have been let into the prosecution—by giving it to the *latter*, its effect, aggravated by an alien and unofficial volume of mind united with experience, sagacity, and weight of character, has been brought into the case, and their condition thereby rendered worse than if the \$1000 had been given by Redding to the Commonwealth's Attorney. It is, gentlemen, in the contemplation of sober reason, unfair, and therefore unlawful, that the effect and influence of this \$1000 should be thrown into the scales against them. It is corruption to an *undefined* extent—I say undefined extent, because, though we can ascertain the amount of the money, we cannot ascertain precisely the degree of unfairness it produces—but as any, the least degree of it, is excluded by the laws of criminal procedure, we can with confidence, say, that the influence of the \$1000 fee, most gratuitously and sagaciously exerted by the hired lawyer against the accused is palpably unfair.

There is, gentlemen of the jury, in the human heart an inherent love of fairness, which, when unbiassed by passion, it is sure to display whenever occasions for its display are presented. It pervades all ranks and grades of mankind. It is evinced in all their settled modes of contest—when a fight occurs among the multitude, you will hear the exclamation of fair play from the mouths of all, who are not engaged in it; and very many, in every crowd

are ready to maintain fairness at all hazards. Hence, the popular apothem—*fair play is a jewel*. Pugilism and duelling have their rules of fair play. The sports of the people, as well as their fights, have some settled rules of fairness—and even war between nations has its laws of fairness—these rules of fairness are legibly and indelibly written, upon the human heart, and we perceive them intuitively—we feel their force in every fibre of our frame—in every pulsation of our blood—they are venerated every where, and in reference to every subject.

Gentlemen of the jury, to give you some idea of the degree in which this principle was cherished by our rude ancestors, when the accused had a right to wage battle with his accuser, let me refer you to the rules of fairness by which the combat was regulated and conducted—and mark that even in this mode of trial, the accused was presumed to be innocent until convicted, that is, until vanquished by the accuser. You will find the rules to which I allude, in the 2d volume of Montesque's Spirit of Laws, commencing at page 201, but I shall read only two or three of the rules, from page 203: "Before the combat, the magistrates ordered three banns to be published. By the first, the relations of the parties were commanded to *retire*. By the second, the people were *warned* to be *silent*; and the third, prohibited the giving of *any assistance* to either of the parties, under severe penalties, nay, even on pain of death, if by this assistance, either of the parties should happen to be vanquished." Observe, gentlemen, that the relations were to retire. Do you ask me why? Surely—lest, influenced by the feelings of kindred ties, some of them might assist their relative, and therein violate the principles of fairness. The crowd were to be *silent*. Why silent? lest, by their *hisses* or their *plaudits*, they might animate the one or depress the other, or exert a distracting influence upon either. Now let me ask you, does the attitude of the gentleman, and his \$1000 power, exerted against the accused, quadrate with this rule? What rule of fairness, within the verge of human conception, justifies his position here, and his exertions against them? Does he know how much the *assistance* given by him to the accuser, may conduce to the vanquishment of the accused? Does he feel conscious that if by this assistance of the Commonwealth, (the accusing party,) he shall conduce to the conviction of the other party, he incurs under the spirit of this last rule, the penalty of death.

Gentlemen of the Jury, such was the mode, and such the principles of fairness, observed by our ancestors in trying such a case as the one in which we are now engaged—a mode upon which we look back with reprobation; but our reprobation of it is greatly mitigated by the lustre of the moral jewelry

which lingers about it; and think you, gentlemen of the jury, that the wise and more civilized statesmen and jurists, who rejected that barbarous mode of trial and substituted the mode which we are now pursuing, rejected with it those principles of fairness which constituted all that was attractive and valuable about it? Think you that they interred the jewelry with the body of the defunct mode? No, gentlemen—they transferred those jewels to our code; *their* splendor gilds and sets off its symmetry. It is that very splendor which is now being dimmed, that symmetry which is now being marred, by the unfairness of the mercenary and unauthorized efforts of the representative of the avenger of blood. By the theory of criminal trial with us the accused are placed in the custody of the law, protected from all extraneous force, and subjected only to that of its own power, exerted through its own responsible and unprejudiced official agents, throughout every stage of the proceeding, from the inception of the trial to its *finale*. Even after conviction and sentence pronounced, the execution must be done by the proper officer and in the manner prescribed by law. If the proper officer vary the manner prescribed, as by hanging one sentenced to be beheaded, or by beheading one sentenced to be hanged, he is guilty of murder; and if one that is *not an officer* execute the culprit, even according to the manner prescribed in the sentence, he is guilty of murder.—See this law in Hale's Pleas of the Crown, 1st vol., p. 501. Strange that a man ascertained to be guilty and doomed to death should be protected by the law from all unofficial assaults, and that the same law should allow the life of a man presumed to be innocent to be assailed by the hired representative of the avenger of blood, even in the very temple of justice! By our Constitution and laws the accused are allowed to defend themselves against *official* assaillment, and even furnished with the means of doing so—they shall be heard by their counsel, and if they are unable to employ counsel, counsel shall be assigned them by the Court—they shall be confronted by the witnesses against them—they shall have compulsory process to compel the attendance of witnesses in their behalf. The jury, the judge, the sheriff and the Commonwealth's Attorney shall be unbiassed—all shall be unbiassed—and yet the hired counsel of the *avenger*, and he alone, is to be irresponsible, and may aim his poisoned arrows with impunity, nay, lawfully as he would have it, at the hearts of the accused—he is to be the only licensed homicide in the whole judicial coterie—he alone among all in the court-house may, *per fas, aut nefas*, kill the accused if he can, with impunity. Can the law, I would ask you, gentlemen of the jury, license such a procedure against the accused? Ought it to do so? Would it be fair that

it should? No, gentlemen—no—it neither is, nor ought to be the law. It is a vicious and foul excrescence, which, like misshapen upon the oak, deforms and distempers the trunk upon which it fastens itself.

It is an erroneous notion, that when a man has a license to practice law he may annoy and harrass whom he pleases, in his professional character—no man has a right in virtue of his *law-license* to harrass one man by assailing him with even a *civil suit*, in the name of another, without a warrant of attorney from that other.—See Munroe's Rep. 189. Then let me ask the gentleman where is his warrant of attorney to prosecute in this case—he has no authority from the Government, which alone could give it. The commission of the Commonwealth's Attorney is his authority to prosecute; but the gentleman has no authority whatever. The judge cannot give it: he can confer the power only in the absence of the Commonwealth's Attorney, and then only according to the provisions of the Act of Assembly in that case provided. But if he could confer the power, he cannot *decently* appoint a man who had taken a fee of 1,000 dollars to convict the accused, if possible, guilty or innocent. He would be bound in honor to appoint some disinterested gentleman of the profession, whose weight of character would be a pledge to the accused, and to the community, that he would conduct the prosecution fairly and justly.

Now I ask if it be reasonable to suppose that the law which denies to the licensed lawyer the *bad privilege* of annoying his neighbor in a civil action, without warrant of attorney from the plaintiff, would allow him without a warrant of attorney from the Government or from any authoritative power whatever, to obtrude himself into a prosecution and exert all the powers of his mind not merely to annoy or harrass, but to destroy the life of the accused?

Can it be believed that the law would guard the citizens so scrupulously, in reference to their *property*, against the avarice of the bar, and leave their *lives* a prey to that cormorant passion?

There is no statutory inhibition against such a course, by a hired lawyer against the life of his fellow, and only because the inhibition was to be found in the statutes penned by the finger of Heaven upon the human heart. The Legislature could not suppose that gentlemen of the bar would give into a practice so obviously contrary to the laws of nature—a practice reprobated alike by the unvitiated feelings of the human heart and the spirit of Christianity. Grotius, p. 421, after having commended nations for giving commissions to their national vessels, authorizing them to destroy pirates, commends also the practice of appointing, by commission, prosecutors of crime, "when not any one, who

has a mind to it, is allowed to be a prosecutor; but only some *particular* men, who are appointed by *public authority*. That so no man may contribute towards the effusion of his *neighbor's blood*; but only he who is obliged to it, by his office. Agreeable to this is that canon of the Council of Elieus:—If any *believer* be an *informant*, and another by his information be either *proscribed* or put to *death*, we have thought fit to forbid him the sacrament, even to the last." Gentlemen of the Jury—comment upon this passage is unnecessary. It speaks the language of humanity, as well as of Christianity. Its import applies to the prosecution of the life of one man by another, who has no commission from his Government to do so. Here the talented gentleman who is hired to prosecute pretends to no such authority. The circumstance that the accused are strangers, from a sister state, should (if nothing else could) have restrained him. Gentlemen, the word stranger addresses the ear of every generous and benevolent man, and more especially of every Christian, in a tone of peculiar emphasis—it is a word of consecrated import—consecrated by the Founder of our most holy religion. He enjoined upon all his followers sympathy for, and courtesy towards strangers—"I was a stranger and ye took me not in," &c. Gentlemen of the Jury—I set out with telling you that it was in the first place unlawful for a lawyer to appear for money against the life of his fellow man; and second, that it was immoral for him to do so. I have been laboring (and I hope not without effect) to prove the first point, viz: the unlawfulness of the act. I have, to some extent, in discussing it, anticipated the second—but it was unavoidable—for the laws are rules of moral duty; though they do not embrace defence, and enforce the *imperfect* obligations of morality, such as charity, benevolence, gratitude, &c. They enjoin only the duties of perfect obligation.

I contend that the counsel who is now hired to convict his fellow men, in a *capital case*, violates, in the *very act of being so hired*, all the *imperfect* obligations of morality; and if his efforts produce conviction, he violates the most important of all the rules of *perfect* moral obligation. "*Thou shalt not commit murder*," is the rule to which I allude; and I urge that there are more modes than one of committing that crime. A man's life may be destroyed by false swearing, or by erroneous and impassioned pleading, as well as by the stiletto; and the man who deliberately destroys life, by false swearing or by erroneous and impassioned pleading, is not less guilty at the bar of conscience than the man who deliberately perpetrated the same deed by the dagger. The accused are prosecuted for murder; suppose them to be innocent, and suppose that by the efforts of the hired counsel they shall be convicted and executed, would he not be guilty, in a moral point of view,

and at the bar of conscience, of the very crime which he had imputed to them? You must answer in the affirmative—and he, (but for the illusion into which he seems to have fallen upon this subject,) would be constrained to answer, as David did to the prophet, “that man is surely guilty, &c.”—and might it not, in the words of Nathan, be replied, *thou art the man*. I wish I could disenchant and redeem his mind from the illusion in which the sorceries of avarice have enthralled it; I wish I could convince him and the few among our lawyers, who, influenced by his example (and the example of one or two other lawyers of distinction) have been seduced into the practice of receiving fees to assail the lives of their fellow men; but I almost despair—the habit with him has become too inveterate—yet, in the hope of restraining the younger members of the bar from a practice which detracts so much from their professional, and, (according to my notion,) so much degrades their personal character, I will pursue the subject—for it is in this view, mainly, that I have already devoted so much attention to it. I will not deny, however, that I had the further view of endeavoring to convince you, gentlemen of the jury, that you ought to distinguish between the efforts of Mr. Bullock, the accredited organ of the Government, and those of the gentleman who has (influenced by a \$1000 fee) obtruded himself into this prosecution; and to regard those of the one as a stream emanating from the pure fountain of public justice, but a little discolored by the excitement from which even official posture is unable to redeem our frail nature. Those of the other as a turbid and muddy stream of large volume emanating from the fetid marshes of exuberant avarice, betraying its source by the noxious effluvia which it emits in its course. The one as the fountain of health and of life to the innocent; the other, as the Bagan Upas, destroying indiscriminately by its poisonous breath all whom chance or accident shall have thrown within its grasp.

But dropping the figurative, let me discuss further, in plain prose the moral position of the lawyer who appears for fee against the life of his fellow-man. He is employed to devote all his talents and attainments, to the *destruction* of the accused, that is the object at which the avenger of blood aims—to achieve that object he gives the \$1,000, for that sum the lawyer engages to take the lives of the accused, if by the weight of his character and force of his talents he can possibly do it—if the death of the accused could have been effected *justly*, by the operation of the laws and the agency of the public functionaries, then the \$1,000 would not have been given, the purpose of the avenger would have been attained without so large an expenditure on his part. It was then, to destroy the accused, guilty or innocent, that

the counsel was engaged. The engagement must have been either to convict or acquit the accused. But the avenger would not have given \$1,000 to counsel to procure their acquittal. It must then have been given to destroy them—to take their lives, and it must have been received by the lawyer to effect the purpose for which it was given—namely, to take the lives of the accused, or, to convict them, which is *identical* with taking their lives. Gentlemen of the Jury, if this is the fair conclusion, and I feel so sure that it is, that it cannot be resisted, then, I would ask you, I would ask casuists, I would even ask the venerable and distinguished lawyer himself, to tell me what is the difference of the *moral guilt* between *taking a man's life for his money*, and *taking money to take his life*? I declare solemnly, that if there be a difference in the *moral guilt* I have not brains to comprehend, or perceive that difference. I can readily perceive, that in reference to the exterior aspect of the two cases, the former would seem to have the advantage of the latter, in the fact that with it are associated a boldness and daring of which the latter is entirely destitute. The highwayman in taking the life of another for his money hazards his own life. He may himself be slain, and if he should not he may be apprehended, convicted, and expire on the gallows. He incurs the hazard of all these events. There is in chivalry, a charm, a fascination, I had almost said a witchery, which gilds, and to some small extent mitigates crime itself. But in the latter case there is not one mitigating, not one redeeming trait. The hired lawyer knows before he contracts to take the lives of the accused, that they are not only without arms, but bound hand and foot by the cords of the law; aye, and dumb too. He has nothing to fear from them. He has but to compound with his own conscience, and without any hazard whatever, fall to work upon his victims. But still it would seem to me that the heart of the lawyer thus engaged, must become strangely callous to enable him to proceed in the work of death, with the levity and sportiveness with which it has been conducted in this case. And yet the gentleman tells us, and quotes Burns in affirmation of the sentiment, “that the heart is ai, the part ai, that is right or wrong.” Does the gentleman expect us to take as a *fac-simile* of a *right heart*, the feelings and sentiments which he has displayed throughout the management of this case? It is not by such sentiments and feelings that the Scottish Bard illustrates his conception of a heart that's right; let me refer the gentleman to the following delicious morcean upon the subject of the heart from the same poet.

“The sacred low of weel placed love,  
Luxuriously indulge it,  
But never tempt the illicit vow,  
Tho' nothing shou'd divulge it;

I waive the quantum of the sin  
The hazard of concealing,  
But ah, it *hardens* all within  
And petrifies the feeling.

Here we see how the heart is *hardened*, and the feelings *petrified*, by indulging a passion less sordid than *avarice*. Burns thus shows how the heart may be rendered wrong: let me refer the gentleman to another poet, who, like Burns, ministered at the altar of nature. He thus instructs us how to keep the *heart aright* ai.

Be thine the feeling of the mind,  
That wakes at honor's, friendship's call,  
Benevolence, that unconfined—  
Extends her liberal hand to all;  
By sympathy's untutored voice  
He taught her social laws to keep;  
Rejoice, if human heart rejoice,  
And weep if human eye shall weep.  
Who feels for other's woes,  
Shall feel each selfish sorrow less,  
His breast, who happiness bestows  
Reflected happiness shall bless.

Which, gentlemen of the jury, is the *right heart*; the one displayed by the lawyer, who permits himself to be employed to degrade and destroy the accused, or the one portrayed and recommended by the Poets, just quoted? I will not insult you by affecting not to know what your answer will be, or rather what it is—I should ask your pardon for having asked you the question. The precepts of the Poets of nature, like those of the Gospel, in reference to the feelings of the heart, are but principles of fitness resulting from the nature of man, and his social relations. Human life is at best but a tissue of hopes and fears, of cross purposes and inquietudes, of alternated sickness and health, of sorrows and joys, and the reciprocation of kind offices and sympathies of the heart by men in their social condition, alleviate the sorrows, mitigate the woes and increase and heighten the joys of each. Man is not a solitary animal—he cannot live alone—his organic bias and natural aptitudes are *all* social, but with them all, without the fine sensibilities of the heart, society would be a curse to him, for without them there would be no conscience—and without conscience there could be no virtue, and without virtue there could be no happiness. Hence those who permit inordinate avarice, or the extreme of any other passion, to petrify their hearts and harden their feelings, are warring with the purposes of nature, in reference to the social condition of man—man's long state of infantile imbecility and helplessness, and his dependence, during all that time, upon the sympathies of the heart for existence and sustenance, indicate the high estimate which nature places upon them. Infancy is the period of the heart's pupilage in the divine science of sympathy—our first lessons are received in the nursery—they

fall from the lips of maternal affection upon our infant hearts, as gently as the dews of heaven descend upon the tender grass. It is thus the virtues are planted in the heart, and take root, and grow in its sensibilities—it is *here*, in the nursery, that valor too, the associate and protector of his sister virtues, germinates and unfolds its nascent energies—stern and vigorous, bold, and daring as it becomes, it is like the other virtues, the offspring of weak but lovely woman. By a wise arrangement of nature, the ladies are made to grow, and to admire it, because they constantly need its protecting influence. They respect it in their husbands, and cultivate it in their sons. The little boy, but just emerged from his cradle into his first pantalons, while he listens to the tale of female distress, or injured innocence from the lips of his fond mother, feels the germ of valor glow in his bosom, and distend his little chest, and while she tells him that the fair damsel was rescued from brutal violence by some chivalrous knight, struts across the floor in steps of measured pride, and pants to be a man; that he also may signalize himself by deeds of valor and benignity. The mother rejoices to see in the flashing eyes of her lovely boy the scintillations of his father's spirit—a spirit in the full and protecting radiance of which, and the blessing of heaven, she and her little ones have thus far rested securely.

Gentlemen of the Jury—it is thus the heart is trained, and its sympathies and feelings schooled in each successive generation to the performance of the social duties and the practice of the virtues—yes, gentlemen, it is from the physical weakness of woman, that man derives his moral strength; and shall her lessons be set at naught, and contemned with impunity?—will not the gentlemen who received money to destroy the lives of their fellow men be signally rebuked by public sentiment?—will not the ladies take cognizance of the subject, and place their withering veto upon a practice so repugnant to all their feelings and inculcations? The venerable gentleman has humorously, wittily, and even prettily, protested against a change of venue in this case, from the jury to the assemblage of beauty, taste, and intelligence, with which this trial is honored, and the bench of the judge adorned—and assigns, as the reason for this protest, first, that the venue has been once changed and cannot be changed again. And, secondly, that he would not be at home before that fair tribunal, by reason of the want, on his part, of imposing personal presence, and the aptitudes, manners, and attractions, suited to such an assemblage. This little sally on his part, was intended for the ladies, and designed to divert their attention from the *repulsive* posture which he occupied; and to conceal its moral deformity, from their view. I tell the ladies, that every

question involving morals, belongs in an emphatic manner to them, let the law of the case be decided as it may by courts of law—the *morale* of it must, directly or indirectly, be finally settled by their tribunal in its appellate character. But I have occupied too much of your attention upon this preliminary point, and perhaps have been too divergent and diffusive in the discussion of it. But impressed as I am with its importance to the profession of the law and to the community, I could not pretermit it.—What I have said is not in any spirit of unkindness towards the venerable, and very talented gentleman, who has been employed by the avenger against the lives of the accused. I have no unkind feeling toward him. I claim no right to rebuke him personally. I have no motive to do so; but I have a right to reprobate the practice, and I regret I cannot do it in the abstract. My observations are intended to be applied, not to him *personally*, but to the practice *personified* by him. It is true, and pity it is 'tis true, that he is not the only distinguished lawyer in the Union, who has permitted himself to be employed against the lives of his fellow-men. A few, and I am glad to say very few, others, have lent the sanction of their talents and weight of character, to this odious and inhuman practice. I feel concerned that it should be put down, and regret that our courts have permitted it. The Judge should denounce it as unlawful and unfair, and refuse to permit it.—The prosecuting attorney should feel himself disparaged by any attempt to associate with him a lawyer, hired, not to represent the Government, but the revengeful spirit of the avenger of blood. He should feel that he is the organ of the law, ministering at the altar of justice; and to maintain the sanctity of his position and his own competency, he should exclaim to the mercenary representatives of the avenger "*procul—O procul estate prophan!*" and such I am sure would have been the course of the prosecuting attorney in this instance, had he not felt restrained by that diffidence which is inseparable from youthful talents, in the inception of its official course. But let me tell that young gentlemen, that the competency, which he has displayed in the management of this case, will leave him without apology, or excuse, should he, hereafter, submit to the like intrusion.

Gentlemen of the Jury—you must have perceived that I commenced with the topic with which Mr. Hardin closed. He would have you convict and sacrifice the accused, for the purpose of putting down, if for nothing else, the practice of wearing Bowie-knives, and thereby checking the torrent of corruption, which, as he would have you believe, emanates from that practice and threatens the subversion of our free institutions. I would have you believe that the practice of taking

money to take the lives of his fellow-men in our courts of justice, as he does professionally, is greatly more unseemly and corrupting in its tendencies, than that of wearing Bowie-knives. That the latter is matter of constitutional right—while the former violates the constitution and laws of the land, and every precept of Christian morals. You have heard us both, and will judge between us. What I have said however upon this point, is intended by me rather as a kind of nuncupative legacy to the junior members of the Bar, many of whom are attending this trial, and are the sons of my old friends, than for your consideration as jurors in this case.

I would say to them, that their license to practice law invests them with no powers to violate the social duties; that by becoming lawyers they have not ceased to be men. That the high and honorable profession which they have chosen, imposes upon them increased obligations to cherish and promote those feelings of the heart, upon which the virtues and of course the happiness of mankind so generally depend—that every political community consists of an indefinite number of domiciliary communities—the number of which are united to each other by ties of affection—not simulated, but natural, emanating from the heart—the relations of the members of the political body are artificial—that the artificial ought not, indeed cannot absorb or extinguish the natural. In the family circle the virtues and charities which exalt, embellish and adorn our nature, are reared under the fostering care of maternal kindness, moistened and bedewed from the sacred fount of the maternal *storge*, as I have already told you. That in their sacred domiciliary circles, the hearts of all are reciprocally united to that of each other, by ties which, though of gossamer texture, are stronger than hempen cords; and that whenever a citizen is destroyed—a husband, a father, a son or a brother, is torn from this family cluster, by a disruption of all the ligaments which bound their hearts together; that the heart of each bleeds with agony, and that of the mother is broken. Now if there is any meaning in the divine precept "do unto others as you would that they should do unto you," how can any lawyer who is a husband, father, son, or brother, (and every lawyer must come under some one or other of these denominations) reconcile it to himself to take a fee to take the life of a man sustaining the relations I have mentioned, and thus incur not only the moral guilt of homicide, but with it that of inflicting in many instances widowhood and orphanage, and agony of feeling in every instance upon some circle of domiciliary affection: for every man (I repeat) belongs to a circle of that kind. I would say therefore in conclusion upon this point to every junior of the profession, touch not, handle not, the price of such



complicated cruelty—degrade not your profession, harden not your feelings by an act so revolting and remorseless.

I will not, gentlemen of the jury, apologize to you for having detained you upon this preliminary point so long—a point not involved in the cause you are sworn to try, but yet, as I think, of sufficient importance to the community to plead in its importance, my excuse for the time I have directed to it. The question in issue, and the only question, is, were the accused placed under the necessity, by the conduct of the unfortunate Rothwell, Meeks, and others, of taking the lives of those two misguided men, in defence of their own? Gentlemen, the moment the testimony was closed on the part of the Commonwealth, I perceived distinctly from your countenances, that you had even upon that exparte and adverse testimony, decided the question in favor of the accused. I have perceived, also, that up to the moment, when I rose to address you, your decision remained unshaken, unaltered, and therefore, it was, that I lingered so long at the threshold of the real subject of your enquiry; my clients I knew would excuse me; they felt no apprehension; they had obtained all they desired, an enlightened and impartial jury; their acquittal (they knew) would follow of course. But if the case had needed the utmost and the ablest discussion, they saw, and heard the efforts, in their behalf, of my friend Col. Robertson, an aged, experienced, and talented lawyer—of young Mr. Thompson, whose display in this case may be considered by his friends as a pleasing presage and sure pledge of his future professional eminence; and they must have been delighted, as you, and I, and all around us were, with the sun-shine lustre shed upon the law and facts of this case by the transcendent genius of their friend, and fellow Mississippian, Mr. Prentiss. I must, however, more because it is expected of me, than needed by the case, re-touch some of the topics which they analyzed so well and discussed so ably. But I do it with my intellectual vision dimmed by the reflected light of the genius which has beamed upon them, as our ocular vision is sometimes blinded for a time, by the strongly reflected rays of the sun. Indeed, were it not that Mr. Hardin, (of whose posture in this prosecution I have discoursed you,) has given some distorted views of the testimony and the facts, and in some degree misconstrued, as I think, the law, I would not have said a word to you upon the main subject, believing, as I have already told you, that your verdict had been, long since, *virtually* formed in their favor, and that so far as speaking might be thought necessary, more had been said and better said, than any thing I could

Gentlemen of the jury, let me, before I make any comments, exhibit a condensed view of the leading facts of the case. They are, that, Judge Wilkinson, with his two friends, was at the Galt House in Louisville, on his way to Bardstown to marry Miss Crozier, an accomplished young lady of that place, whose affection and consent he had previously won. The day fixed for the marriage was the Tuesday next succeeding the day of the catastrophe which gave rise to this prosecution; his brother Doctor Wilkinson, and his young friend, Mr. Murdaugh, had come with him as *friends* on this occasion, and they remained in Louisville a few days to replenish and fit their wardrobe for it; in the doing of which, they became acquainted with the witness, Mr. Redding, a tailor of that place. He made a coat for the Doctor—it did not fit him—a dispute arose between him and Judge Wilkinson, upon that subject—some blows were exchanged—they separated—the Judge, his brother, and friend, went to their lodgings at the Galt House. This happened about 4 o'clock, P. M. on the day of the catastrophe. Redding was much enraged at what he supposed was the ill-treatment he had received from the Judge, who had snatched up a poker and aimed a blow at his head with it, which, as he ward-ed it off, took effect *without hurt* or injury of any kind upon his arm. Redding went to the Mayor's office to obtain process against the three, for the Doctor and Murdaugh had, during the scuffle between him and the Judge, drawn their Spanish knives. The clerk of the court told him that he could not issue process until furnished with their names—he promised the clerk that he would get the names and return. He, and his unfortunate brother-in-law, Rothwell, went together in the evening about dark, or a little before, to the bar-room of the Galt House, to obtain the names, (as he says,) of the Mississippians—having obtained them upon a slip of paper from Mr. Everett, he remained in the bar-room for some 15 or 20 minutes, when Judge Wilkinson entered. Whereupon, Redding accosted him, by asking him, if he was not the man, or gentleman, who had struck him with a poker—and commenced abusing him in a most vituperative manner—calling him rascal, liar, scoundrel, coward, poor pitiful Mississippi Judge—and stating that he could whip them all three, if they would lay aside their weapons, and go into a room or the street—the Judge replied, only, that he would have nothing to do with a man of his profession—that if he laid his hand upon him he would kill him—and after listening for some time, as he walked backward and forward across the room, to the foul abuse of Redding, retired, accompanied by Mr. Everett, to his own room, on the second floor—after remaining

in his room for about 15 minutes, they came down into the bar-room to be in readiness for supper, which was nearly ready. When the Judge retired, Redding exclaimed, the damned coward has fled—and when the Judge returned to the bar-room with the Doctor and Murdaugh on their way to supper, Redding having retired during the Judge's absence, immediately entered the bar-room after them, and exclaimed in a high voice, they are all *three* here *now*, and accosted Murdaugh, saying, you are the gentleman who drew a knife, or a bowie knife, upon me at my shop to day. Murdaugh replied, whoever says, I drew a bowie knife upon you, is a damned liar, and displayed in his right hand a white handled Spanish dirk knife, telling him to stand off, and swearing that he would kill the first man that laid his hands upon him; whereupon, Meeks seized the wrist of his knife hand, exclaiming, you are the damned little rascal! Striking him over the head with the butt-end of a *cow-hide*, when several persons rushed up, and Rothwell struck him over the head with a hickory club, and cut his head badly. Murdaugh took the knife into his left hand and stabbed with it at Meeks, who retreated, striking Murdaugh with the *cow-hide*—Murdaugh stuck to Meeks, although stricken and pressed by others, until his right hand, extricated from the grasp of Meeks, had gained the knife, and with it he gave the fatal stab to Meeks. During this time, Dr. Wilkinson was knocked down and beaten by Holmes and others, almost to a jelly; Judge Wilkinson had also been struck, and stabbed with a narrow blade knife, or a sword cane, which some one of the friends of Redding used on the occasion. While the Doctor lay helpless and nearly lifeless on the floor in another part of the room, Rothwell joined those who were beating him, and commenced upon him with his hickory club—while beating him, the Judge to relieve, or rather save his brother, stabbed Rothwell with a bowie knife in two places, one stab in the side, and the other more towards his back than front. He also, with the same knife, stabbed Holmes through the arm. The Judge having relieved his brother, retreated, (keeping him and Murdaugh before him,) through the passage and up stairs to his room, keeping between the mob and them, and protecting them and himself by brandishing his bowie-knife. They were pursued to the stair case and struck with chairs, and as they ascended, shot at by Oldham. Redding disappeared as soon as the affray commenced, and was not seen until it closed. The accused were unknown to any of those who assaulted them—had never seen nor conversed with any of them. The friends of Redding, who had, all except Rothwell, (who accompanied Redding) dropped in at the Galt House seasonably, were Holmes, Halbert, Oldham, Johnson, Meeks, &c. The first five were among the stoutest

men in the valley of the Mississippi. Redding was armed with a dirk, which he had borrowed on that evening on his way to the Galt House, Rothwell had a large seasoned hickory stick—Oldham had a loaded pistol and bowie knife—Meeks a cow-hide with a knot tied upon the small end of it, and a Spanish knife—the knife however was surrendered to Oliver his friend, before the onset. After Judge Wilkinson had left Redding and retired to his room, these men assembled in the passage, and Rothwell proposed that they should go up to the Judge's room, take out the damned rascals and give them *hell*. Mr. Everett one of the proprietors of the house, left the bar, in which he was, when the rush was made by these men upon the Mississippians, (which was instantly upon the annunciation by Redding, that they were all three present) under the full conviction that a scene was to ensue, which he had no inclination to witness.

Gentlemen of the jury, these are leading facts which have been proved in the case. I have omitted many incidental, and subordinate facts, to avoid consuming your time, by a tedious repetition. They have all been stated with accuracy, and commented upon with ability, by my associate predecessors in the defence.

Now we alledge, first, that there was a regularly formed concertion between Redding and his associates, to beat, and degrade the defendants, if not to destroy them. And, secondly, whether such conspiracy had or had not been formed, the accused were placed under the necessity, by the conduct of Rothwell and Meeks of destroying them, to save their own lives, and so were justifiable by the law of nature, and the laws of the land, in doing the *acts*, with which they are charged in these indictments.

And, gentlemen, first of the conspiracy. You find that Redding was much enraged by the affair at his shop; that he was further inflamed by Johnson, the butcher, who spoke to him of the insult he had received, in aggravated terms, vaunted of his own manhood, by declaring that he was as good a piece of stuff as ever was wrapped up in so much *hide*, and declared that they would get *Bill Holmes and his party* and give them the Devil. Redding at the instant declined the proposal, but declared that he would have *satisfaction*. He and Johnson left the shop and went together to the Mayor's office, when Redding applied for process and promised to *return with their names* and obtain the process. Here Johnson and Redding separated—the latter went by the shop of his brother-in-law, the unfortunate Rothwell, took him along with him, and returned (by what route we cannot know exactly) to his own shop, which is but a short distance from the Galt House. Where Johnson went we do not know—the next place we meet with him is at the

head of the Market-house, in company with Bill Holmes, Halbert, &c. The same coterie is afterwards, late in the evening, seen on Main street near the Galt House—these men are all at the Galt House and unite in making the attack upon the Mississippians.

Now gentlemen of the jury, weigh these facts, ponder upon them, and ask yourselves if they could all be the result of accident. Mark that Redding declared that he would *have satisfaction*. Johnson and Meeks urged him to it, and prescribed the mode, which was ultimately adopted, to get Bill Holmes and his party and drub or Lynch them. Did Redding pursue the plan of obtaining satisfaction which he had proposed? Did he when Everett gave him the names of the Mississippians return to the Mayor's office as he had promised the clerk? On the contrary, did he not linger at the bar until Judge Wilkinson came in, which was some time, and after he had seen the Judge and vented his venom upon him, did he then, after the Judge had retired to his room, return to the clerk and sue out the process in furtherance of his ostensible purpose. No, gentlemen—and why did he not? Evidently because either his proposition to seek satisfaction at law was a mere pretence, to cover the conspiracy proposed by Johnson, namely, to get Bill Holmes and his party and give them hell—or, if he was sincere in his proposition, he was led to abandon it, and adopt that of Johnson; that it was his primary or ultimate design cannot be doubted, for Bill Holmes and his party were there and united with Redding and his party in making the onset. Meeks, Johnson and Rothwell were of Redding's party. How came they all to meet at the Galt House on that evening, and about the same time of the evening—and what is remarkable, animated by the same spirit, a spirit of hostility towards the Mississippians? How came they all to understand the *watch-word* pronounced by Redding upon their entering the bar-room? For you remember that the moment they entered he exclaimed, "*they are all three here now*"—and instantly the rush was made. Mark, gentlemen, their malicious design was against the Mississippians, and they were three. The words, *all, three* and *now*, are to be construed in reference to the interview which had taken place between the Judge and Redding about fifteen minutes before. *Then* there was but *one*; the *three* are here *now*. *Their* vengeance would not have been slaked, their purpose to punish and degrade *all* would not have been accomplished by action *then*; but *now* they are all *three* present their purpose may be effected. Mark, too, gentlemen of the jury, that Redding was the only man of the conspiracy who knew the Mississippians personally. They had conspired to act upon the men who had insulted Redding; but they did not know them.

Redding did—no other man in the house could have given the signal but Redding. They alone of all the men in the house could understand the signal—and how could they understand it unless by previous concert? Messrs. Redding and Johnson therefore are not to be believed when they swear that there was no conspiracy against the Mississippians, no concert to do violence to them on that evening; and they illustrate most forcibly the proposition cited by Mr. Hardin, and to which I agree, namely, it is not always that which is sworn that is evidence—what they have sworn in relation to this matter is most emphatically not evidence of the proposition to which they depose.

Their condition is certainly a very unenviable one. The lawless conspiracy which they formed to destroy the accused resulted in the death of two of their co-conspirators—and to avoid the imputation of the moral guilt of the murder of their friends they are obliged to deny the conspiracy, upon oath, notwithstanding they cannot flatter themselves that there is in existence one honest man who can believe them—alas! for the frailty of human nature.

There is, gentlemen, fortunately for the interests and happiness of mankind, an impress upon truth which we discern as it were by intuition. Man is a rational being—he acts from motive, and when he aims at any end, whether good or bad, he selects and adapts the means to the end. The means to be suitable must be homogeneous, otherwise instead of promoting his design they will neutralize their force by antagonism and fail in their efficiency. A good purpose is promoted by good means—a bad purpose by bad means. Here we may learn the purpose of the agent from the complexion of the means he has employed to achieve it, and hence we can ascertain the character of the means from the known character of the purpose. Therefore when a witness swears positively against the inference which every rational mind would draw from established or known facts, he is not to be believed. The known or established facts cannot lie. When those facts consist of acts done by men, as the agents were rational, we can infer their motives from their acts—and if the acts were simultaneous and concurrent, by agents living remote from each other, and pursuing different avocations, we can, we must infer that they agreed or *concerted* to act *together* and at the *same time*, though they should all swear positively to the contrary. In the moral as in the physical world, homogeneous matter alone coalesces.

Now it was quite unnatural that Bill Holmes should have left his boat and with his party gone to the Galt House, to beat and degrade three Mississippians who had never wronged him in word or deed, whom he did not know, and of whom he had never heard. It was equally so in relation to all the others except Redding, who alone knew them, and

had, or supposed he had cause of complaint against them. Holmes and the others must therefore have been informed of the grievance of Redding, and must have agreed upon the time, place and manner of avenging it, by their joint agency; therefore what the two witnesses have sworn is negated by the unvarying laws of nature, as displayed in the agency of man—what they have deposed upon this matter not only lacks the congruity and symmetry of truth, but is stamped with the unglossed impress of a vile and execrable counterfeit. Yes, gentlemen—if every man concerned in that nefarious transaction were to swear that there was no concert, no conspiracy, they would not under the state of facts disclosed in this case, they could not be believed. You have heard the law read from Foster, p. 256, relative to the killing of a conspirator by the person conspired against. If the conspiracy be not to take his life, but only to beat him, he may lawfully kill the conspirators. It is not, as in the case of an assault by an individual, necessary that the person assaulted should flee to a wall, or have no mode left of saving himself from death or great bodily harm before he may lawfully kill the assailant, but he may slay the conspirators upon the first assault, and without retreating—so abhorred by the law is a conspiracy. One reason of this abhorrence is evident: in a conspiracy *many* are united against *one*, or a *few*, and no calculation can safely be made upon forbearance or retreat. There is, too, unfairness as well as wickedness in combination for such unlawful purposes.

Gentlemen—obvious and plain as the conspiracy in that case must appear from the facts to which I have referred you, and the proof direct of several witnesses on the part of the defence, Mr. Hardin has the modesty to deny it and to urge upon you that it cannot have existed without the knowledge of Redding and Johnson, (*par nobile fratrum*) and that, as they have sworn it did not exist, therefore there was no conspiracy—that I have attempted to show you is a *non sequiter*. In the same spirit of modest assurance, that gentleman, as if unwilling that the case should be without a conspiracy, furnishes you with one, the coinage of his own fruitful fancy. He tells you that when Judge Wilkinson got to his room, after his interview with Redding, he related to his brother and Murdaugh the abuse which he had received from Redding, and forthwith formed a conspiracy with them to descend to the bar-room and murder Rothwell and Meeks, or perhaps Redding. The gentleman did not give personal specification to the infant of his brain. Why, Mr. Hardin, do you think this conspiracy was formed by those gentlemen? Because they told Mr. Everett to send them up pistols, and because they came down armed, the Judge with a bowie-knife and each of the others with a Spanish dirk-knife—and be-

cause instead of entering the dining-room by a *private door* they chose to pass to supper through the bar-room, and through the large folding doors that were labelled *dining-room door*—and because they came down to supper two or three minutes before the supper-bell was about to be rung. Gentlemen, let me request your attention for a moment to Mr. H's conspiracy. Mark, gentlemen, that he relies upon inference in support of his proposition—he does not pretend to have any proof of it as a distinctive fact. Now an inference to be availing must be rational. They wanted pistols, therefore they meditated an attack. Upon whom was the attack meditated? Not against Mr. Redding—the Judge alone had, only fifteen minutes before, awed him, and might have killed him had he been so inclined—not upon Bill Holmes and his party combined with Redding and his friends. It is unreasonable to suppose that three feeble men, strangers in a strange country, should conspire to kill some eight or ten of the stoutest men in the land, and that too without any assignable motive. With the exception of Redding they were all strangers. Again, those men, Holmes, &c., were there either as conspirators with Redding or they were not. If as conspirators, then the pistols were necessary for defence—if they were not, then in that character they were not wanted to assail them, and I have shown that they were not wanted to assail Redding—that purpose would have been absurd and foolish—besides he was not assailed. Then they were wanted for defence against the real conspirators, Holmes, Rothwell, &c., and the demand of them is an additional proof of the real conspiracy by Redding, Holmes, &c., against them. It is proved that the Judge, as well as every body in the room, had inferred from the appearance, manner and conduct of those men, that they had assembled to inflict violence upon the three Mississippians.

But, Gentlemen of the Jury, is it reasonable to suppose that these three gentlemen, strangers from a distant state, one of them to be married within four or five days, would form a conspiracy to assault some eight or ten giant Kentuckians. They have been proved to be intelligent, well-bred gentlemen, of pacific habits. One of them has been a Judge of the Superior Court in the state of his residence, and of course a conservator, not a breaker of the peace, and a member of the Legislature, and to be now a Commissioner, appointed by his state, to negotiate for her a loan in Europe. I repeat the question—Is it reasonable to suppose that such men, under any circumstances, and especially under such as I have named, would form such a conspiracy?

Gentlemen; when the excitement was raging in Louisville upon this unhappy subject, I asked Mr. Coleman Daniel, a very respectable, honest, and wealthy mechanic of that city, if he also

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was excited against the strangers. He replied, "No, sir, it would be hard to persuade me that an intelligent gentleman, who had come all the way from the state of Mississippi to this state to be married, would, upon the eve of his marriage, of choice, and without a necessity for it, get into a such a scrape." Your answer will be like his. You will say, with him, that no man of common sense, and still less a well-bred gentleman, would willingly present himself at the Altar of Hymen, with his eyes blacked and his face lacerated and bruised.

When a man is about to be married his mind is far otherwise disposed; his feelings are joyous and pacific, attuned by his prospects to purposes of happiness, harmony and peace—not to jars, tumults and broils. Virtue enlarges her empire in his soul, by presenting new topics of thought and new subjects of aspiration. He feels that his nature is undergoing an ameliorating process, and anticipates from the event to which his heart is devoted ten thousand felicities, all of which will perhaps never be realized—but I am too old to recollect much about this matter—I will barely say that the anticipated pleasures of the lover are not realized only because they are too sublimated for the matter-of-fact condition of even the happiest state of matrimonial life—and the matrimonial is the only happy condition of life. It cannot therefore be believed for a moment that Judge Wilkinson would sacrifice all his prospects of matrimonial bliss to a scheme so wild, so visionary, so sanguinary, and so impracticable: the very nature of such a conspiracy as Mr. Hardin ascribes to the three Mississippians is too absurd to be entertained seriously by even that gentleman himself. He, notwithstanding, still persists in urging it upon you, and as an additional proof of it he urges their having chosen to pass through the bar-room to supper. Here, gentlemen, Mr. Hardin expatiated at great length upon the structure of the Galt House—its public and private ways, its high ways and by-ways, its dining and supping as well as its culinary regulations, and especially called your attention to a private entrance into the dining-room through which the Judge, the Doctor and Murdaugh might have passed to supper in *safety*, and would, as he contends, have done so if they had not formed a conspiracy in their room before they left it to kill Rothwell and Meeks, &c. He does not seem to understand the principle upon which mobs are formed—that it is a principle of cowardice which aims to effect its bad purpose without hazard or exposure to personal danger. It confides in numbers for security, and therefore all mobs are of *several* against *one* or of *many* against *a few*. A mob of *one* against *several* is a solecism, and a mob of *three* against a *dozen* is equally absurd; and in this case the absurdity is aggravated by the consideration, that the three men were of frail physical

structure and entire strangers. Again, such a combination must have had for its principle of cohesion and action the most determined *courage* in each, and of course must have been a natural affinity between brave spirits, for the purpose, not of assault, but of mutual defence. Mr. Hardin's conspiracy is destitute of all the essential ingredients necessary to its formation—it is without soul and body both. There was neither *cowardice* nor number there—the elements of such an existence as he tancies were absent. Gentlemen, I repeat, emphatically, that cowardice is the element and basis of all *deliberate* mobs—that they originate in and emanate from a principle of cowardice—hence brave men as members of a mob or conspiracy, not relying upon their own firm spirits, but infected by the principle of their union, play the dastard, and hence the man who shall be assailed by a mob, must, if he hopes to escape its danger, meet and defy it. He must, to save his life expose it, he must beard and conquer the danger—he need not hope to soothe it by addressing its reason, it has none; it is all passion, and passion never listens to reason. An appeal to its magnanimity would be equally unavailing. It is a coward and has no generosity or magnanimity. Flight inspires it and increases the danger. I repeat, then, that his only hope is in defying it. I speak, gentlemen, not only from observation through life, but from experience in the early part of my life.

Now, what is to be rationally inferred from the facts upon which Mr. Hardin relies as the basis of his concluding argument in favor of his alleged conspiracy? Why, evidently that the Judge and his two friends, had strong reasons to believe that a mob had assembled in the bar-room, to assault, abuse, and degrade, if not destroy them. What were they to do were they to take council from fear, and remain in their room supperless, or slip down the stairs quietly, and silently, and creep to supper through the private door, to the dining room, of which Mr. Hardin speaks, or say to themselves, and each other, we will arm ourselves with pistols if we can get them, and if we cannot get pistols, we will arm ourselves with the knives which we have worn in travelling, and we will go to our supper as usual, and by the usual way—the way pointed out to strangers by the index upon the door? What less could they say, what less ought they to have said; what other course could they have taken, and retain their own self-respect, and the respect of honorable men? There is no proof that they knew of this private access to the supper-table, even if they had been capable of skulking through it. Mr. Hardin may have known it, for he tells you that he spends half his time at that house; and it would seem from the very detailed account he has given of the culinary and table regulations, that his powers of explanation had been whet-

ted by his gastronomic impulses. But I will suppose, for the sake of argument, that they knew of this private way, and door, to the supper room, what then? Had they not a *right* to go along the public way—to enter the supper room by the public door? And if they had a *right* to do so, you cannot infer criminality from the exercise of *their right*. But gentlemen, I contend that they could not as men of honor under these circumstances, have gone to supper by any other way. When Judge Wilkinson left the bar-room only fifteen minutes before, Redding exclaimed, see the damned coward has fled—what would have been said by Redding and his co-conspirators, if they had remained in their room, or glided stealthily from it to the supper-room, by the *private* way? What would the community have said, and more particularly the people of Mississippi? How could they have returned to their own State? And, which is of more importance than all other considerations, what would their own consciences have said to them? The reproaches of their fellow men, they could avoid to some extent, by retirement and seclusion. But they could have no refuge from themselves. But gentlemen there was another obligation stronger, if possible, than any, than all I have mentioned, upon Judge Wilkinson, to take the course through the bar-room, to the public door of the supper-room. It is in proof that he was to be married on the Tuesday following—to a beautiful and accomplished young lady—could he if he had skulked, have dared to present himself to her, and to her venerable mother, the widow of a gentleman of known gallantry, and the sister of Gen. Hynes, who is the pink of valor—whose fame is identified with that of Jackson, Adair, and the other heroes of the victory at New Orleans, and next in splendor of fame to *the two* I have named. I repeat, how could he have dared to form a marriage connexion with such a lady, and such a family. If having acted otherwise than he did act, he had dared to present himself, he would have been rejected with scorn and contempt. I speak from a long and intimate acquaintance with the family. Gentlemen, had he hesitated, (and I am proud to believe he did not), all these considerations would have presented themselves to his mind, and his soul would have rebuked him for his hesitancy. There was but one course for them to pursue. There was but one sentiment which could animate them. That course was the pathway of *honor*—that sentiment is (with them and all honorable men) *that others are as much bound to fear and avoid us, as we them*.—There is, there can be no obligation on one man to fear another. Men politically equal—equals, in rights and duties, ought not in the moral, as equals in the natural world cannot control or detrude each other from their positions; and therefore equals ought not to fear each other. Conscious

of this, a sensible man will not annoy another, and a brave man will not submit to annoyance. This sentiment is very pithily inculcated by Fingal, upon his grandson Oscar—"Never search thou for battle, my son, nor *shun it*, when it comes." Gentlemen, can you think of a consideration, which would have (I will not say justified,) palliated the conduct of Judge Wilkinson and his friends, had they acted conformably to the philosophy of Mr. Hardin.—This part, and indeed every part of the case, I would very willingly submit to the decision of the ladies. They admire men who can protect them, and of course detest cowards. It is as I have said in another part of the case, their high prerogative, to give law to the world, upon the subject of character. They ordained in the infancy of the world that valor was the *sine qua non* of excellence in the character of man. That ordinance has continued, and will continue unreversed till the end of time. To that ordinance in all its import, the accused conformed throughout the complicated scene we have been examining. Away then with the rules of action which Mr. Hardin has been prescribing for the accused, under the circumstances of this case. They had learned other lessons. They consulted nature, and obeyed her oracular responses. They had been taught to assert and vindicate their own rights, while they scrupulously observed the rights of others, and abstained from violating them: that they could not consistently with self-respect, be deterred from exercising their own rights, more than they could consistently with honor, and honesty, violate the rights of others. These responses of nature were embodied in the ordinance which I have just told you was enacted by the ladies in olden time, or rather when time was very young. Conformably to that ordinance, the accused came as they had usually done, to their supper, through the bar-room. They acted, as I have no doubt they agreed, or conspired (if Mr. Hardin likes the word) to do, before they left the room. That was to meddle with nobody, but to defend themselves to the utmost against any and every assault that might be made upon them. And gentlemen, they meddled with nobody—they assailed nobody—but they *were* assailed, and they *did* defend themselves bravely, nobly, efficiently. I might here ask, why those men remained so long in the bar-room, if there was no concert among them, to make the assault which was so nobly arrested. But upon the subject of the conspiracy, I have said enough, perhaps too much. Gentlemen, Mr. Hardin tells you, that he has lately returned from the state of Mississippi, and from the graphic and glowing description he has given you of the battle scenes he stumbled upon, in a short excursion which he made from Vicksburgh into the country, one would be almost tempted to believe that a horror of dirks, pistols, and

bowie-knives, had seized upon his feelings and dis-tempered his imagination. Hence he can see nothing commendable in the character of the people of that State. He portrays them as irritable, vindictive, and sanguinary;—as a lordly people who look down with contempt upon mechanics and the laboring classes of mankind. He kindly supposes in their behalf, that the climate in which they live may produce these obnoxious biases of character. If they are attributable to the climate, it is unphilosophic to complain of them, for it was settled in the case of Nebuchadnezzar, that the Heavens must rule. But do the facts, as he has represented them, exist in reality, or are they the offspring of his own heated fancy in this case?—he must allow me to suppose them factitious. I too visited that State more than once, and continued long enough in it to become acquainted to some extent, with the people, their manners, habits, and customs—on my last visit, which was about three years ago, I spent near a month at the seat of government during the session of the Legislature; during that time I saw and became acquainted with many of her citizens, and among others with Judge Wilkinson, and Mr. Prentiss, the gentleman, with the witchery of whose eloquence, and power of argument we have just been delighted, instructed, and let me add convinced,—they were both members and leading members of the Legislature. I saw nothing of the ferocious, or sanguinary about the people of that State. They treated me with the utmost civility, and politeness, and with marked hospitality. The members of the Legislature, and many of the respectable citizens who were on a visit to the capitol, overlooking all political party distinctions, united in pressing upon the distinguished stranger (as they were pleased to denominate me,) from Kentucky, a most splendid public dinner. Gentlemen, I have been much concerned through life in legislation, and of course, my acquaintance with political men, legislators, and others has been extensive, and I can say that I never in my life saw a more respectable, orderly, and intelligent legislative assembly convened, either in my own or any other State—nor did I ever see a more intelligent, polite, hospitable, and highminded people than the people of that State. They detest knaves and cowards—and are prompt to fraternize with honorable men—to support, assist, and uphold men of that character, without inquiry into their avocations—mechanics, agriculturists, or laborers, makes no difference with them. If he be honest and honorable in his transactions, and industrious and temperate in his habits, whether poor or rich, it makes no difference. If poor, they enable him to become rich. Gentlemen: the people of Kentucky should be among the very last, to make, or sanction such imputations against the people of Mississippi. For all the Kentuckians of good character who have gone

to that State (and very many have gone,) have been kindly received, and when they needed, generously assisted with loans, both of money and credit, whereby they have become rich. They went there most of them, mechanics or laborers; they are now rich planters. The gentleman says, they look down upon poor mechanics—it is true they do so, but it is to discern their merit, and if they possess it, to lift them up—to elevate, support, and sustain them in their exaltation. But the other day, they looked down upon Mr. Henderson, a shoemaker; saw his merit, and elevated him to a seat in the Senate of the United States. But that is not the only instance; they *looked down* upon Mr. Prentiss, who had travelled from the far East, and was engaged in teaching school among them—an *obscure* pedagogue—no, I cannot say he was *obscure*. He could not be obscure any where; the eruptive flashes of his great mind, like those of *Ætna*, threw a blaze of light around him, which attracted, or rather exacted their gaze and admiration. They sent him as their representative to the Congress of the United States. Mr. Prentiss must pardon me for thus going into his private history—I was myself an humble pedagogue. The difference in our condition is, that in my case the people of Kentucky honored *me*; in his the people of Mississippi honored themselves. They looked down upon Judge Wilkinson; they discerned his talents and his worth, and elected him to the Legislature, elevated him to the Bench, and conferred upon him the commission to negotiate a loan in Europe for purposes of internal improvement, as you have heard from the proof in the cause. Instances are innumerable; I will not go into detail. But they carry bowie-knives, and the blade of a bowie-knife is so long, and so broad, and the edge so sharp, and it has such a terrific glitter, that they must be a bloody-minded, hot-headed people. Besides, they fight the most desperate duels. Gentlemen, arms of some kind are worn more or less in all countries. They are in all countries used by the coward to assassinate, and by the brave for defence against assassins. If you want to put down the use of bowie-knives, extinguish robbers and assassins, and the use will fall of itself. But as long as good men may be assailed in their persons or property, by dishonest and dastardly men, the latter must be allowed the appropriate means of defence—and the arms for defence cannot be considered appropriate, unless they are at least equal in efficiency, to those of the assailants. But the wearing of arms whether bowie-knives, pistols, or whatever else, does not at all alter the rights of the citizens. For assault they should not be wanted, for defence, when occasion requires, they are of great value. The right of self-defence remains, under all circumstances the same. It is a primary element of our identity. Nature gave it, art cannot take it away—as derived from nature, it is limited to the use of no

particular species of arms, and embraces every species. It is limited only by the obligation of benevolence on the part of the assailed, towards the assailant—and benevolence does not require him to love his fellow man more than himself. A man's right of self-defence does not result from the degree of criminality in the one who assails him. It is personal, inherent, and inseparably united with his own *exclusive individuality*—a person may in many instances exert this right to the destruction of an *innocent* man. A madman (for instance) who is incapable of *crime*, but capable physically, of destroying a man, may be slain justifiably, in the exertion of this right—so may a somnambulist, under the same circumstances. In the case of a shipwreck, when two of the passengers are struggling for a plank, which will sustain but one of them; the one may justifiably kill the other to save his own life. This, gentlemen, is the law of nature, in relation to all animal existences, and the municipal law, in relation to man. See Grotius, p. 25.

Then, gentlemen, why this denunciation of bowie-knives and pistols, for it can make no odds, if the killing was done *justifiably*, whether it was done with the one or the other, or with a simple jack-knife. The question is not, whether either, or what weapon was used, but whether with, or without weapons, the killing was justified, or excused by the law—all that has been said, therefore, by Mr. Hardin upon the subject of carrying and employing arms is foreign from this case. It must have been intended *ad captandum*, or rather *ad exitandum*. Equally foreign from the case is all that he has said about Mississippi, and the Mississippians—whether the killing was done by a citizen of Kentucky, or by citizens of any other State. The question still is *was the killing criminal, or innocent?* That it was innocent in these gentlemen, because necessary to protect themselves from a band of conspirators—from a mob—we have urged, and, I am now insisting.

But, gentlemen, as Mr. Hardin has spoken so much at large upon the depraving consequences of the habit of carrying arms, let me give you my opinion upon that subject. I am now an old man—I was in this country when every man carried his rifle and his tomahawk, and his knife, wherever he went. He carried his arms to defend himself against the Indians, whose incursions were constantly apprehended—and during all that time there were no homicides, no man killed by his fellow—no man apprehended danger from his fellow-man. How happened this? The rifle, the tomahawk, and the scalping-knife, were, at least, as formidable instruments of death, and as depraving as the bowie-knife and pistol—yet it never entered the mind of any one that men were more depraved, or more ferocious by the practice of carrying arms. The true

reason is, that there was not then in Kentucky a single coward. The men, aye, and women too, were all brave—a coward could not remain in Kentucky. The danger from the Indians was too continuous, imminent and proximate. He could not breast it. He could not bear the scorn and derision of the men and of the women, and children too, and had to leave the country.

After the Indian war had closed—which was in 1794—the people of Kentucky laid aside their arms. People from every quarter rushed in crowds into Kentucky, and jars and bickerings resulted for a time, from the intercourse of people of different habits. They were settled, mostly, by an appeal to the prowess of pugilism. There were some suits of slander, and of assault and battery. Kentuckians gradually amalgamated with the immigrants, and we got along very well for many years—among the professional men, there was occasionally a duel.—There were no homicides, no assassinations, until the Legislature of Kentucky, in an evil hour, influenced, unconsciously, by a mistaken policy, enacted, what is generally denominated the anti-dueling law. That law required every officer in the State, civil and military, from a constable up to the governor, including members of the legislature, and lawyers, and from a sergeant to a major-general, to swear solemnly that he would neither give nor accept a challenge to fight with any deadly weapon within, or out of the State of Kentucky. It was a law most evidently for the benefit of cowards—who, without the oath, would never have fought nor accepted a challenge to fight a duel. But who by the administration of the oath were palmed upon the community, and upon themselves too, as men of spirit. Before the passage of this law, a man who might chance to be irritated with another, would, before he published a libel, or slander against him, pause and reflect, that if he persisted, he would be challenged, and *must* either *fight*, or be disgraced, and would wisely desist. He knew that the same consequence would follow from any personal violence to which his irritation might prompt him, and the effect was the same. But upon the passage of this law, dastards, when they had taken the oath, or aspired to offices which they could not fill, without taking the oath, filled their bosoms with dirks and their pockets with pistols, annoyed society with the insolence of mock heroism, insulted their brave competitors, and when about to be chastised, retreated to the *wall*, and killed the gentlemen they had wantonly insulted, *a-la-mode* Mr. Hardin's law. The vicious and depraved portion of the people having been thus licensed to wear arms, the remaining portion were constrained to wear them in self-defence. The consequence is, that the community has been very much annoyed, and vulgarized by the short sighted policy of the Legislature. Sirs, the



pistol was in the times I speak of, and had been for ages throughout the civilized world, not only a most effectual polisher of manners and morals, but a most efficient, though sad peacemaker. It held all who aspired to be gentlemen, and were of course amenable to its tribunal, under a strong recognition for their good behaviour. It is a tribunal instituted by nature, as an auxiliary, to the political institutions of society. It was a misdirected humanity, which influenced Kentucky, and the States of the Union, who following her example, have attempted to suppress it. The object was to prevent the effusion of blood. The effect has been to increase it tenfold. Just as the legislation to repress gaming by fines and penalties, has increased it one hundredfold, when a short act, making all sums *fairly* won, recoverable by law, would have diminished the evil, and improved the morals of the people. Do not mistake me gentlemen, as to dueling; I am no advocate for it, I would not sanction it by law—but I would reluctantly connive at it, as an evil less, greatly less, than that legion of evils which supply its place. As I prefer a high and honorable, to a low and degraded spirit—fair, open, manly, and honorable conflict, to dastardly and cruel assassination, so I would leave it, as England and all wise nations have it, by reluctant connivance. Perhaps my notions upon these subjects are erroneous, but they are my deliberate views, and I do not wish to conceal them. Every duel is a lesson, more or less impressive, as it shall eventuate in favor of good morals, and polished manners—and although the fall of one, or both of the combatants must inflict pain and sorrow upon their immediate connexions, yet the effect is wonderfully beneficial to the community in every view, and strengthening to virtue. The price paid by the community is very great, but the purchase is inestimably valuable. The good effects of this lamentable practice, cannot be obtained at a less price, nor in any other known mode—nor can it be suppressed by human legislation.

But, gentlemen, to return to the case from which I have been diverted by Mr. Hardin's discursiveness. I trust you have been satisfied that the accused were assailed by a band of conspirators, and that they were justifiable by the law of the land in acting as they did, and leave that part of the subject with you.

Mr. Hardin's conspiracy, on the part of the defendants, is too unfeasible and preposterous, to require further notice, than has been wasted upon it. Indeed, it is unworthy of the attention it has received; I therefore dismiss it also—and will now consider the case of the defendants, (for argument sake) as though there had been no conspiracy against them, upon the insulated ground of self-defence. I will suppose that they entered the bar-room, on their

way, and by the *public* way, (like other citizens and boarders) to the supper-table, and that immediately upon their entry they were assailed respectively, as it has been proved they were. The question is, was Mr. Murdaugh justifiable in taking the life of Meeks, and was Judge Wilkinson justifiable in taking the life of Rothwell?—for, against the Doctor there is no proof. The proof in reference to what Rothwell was doing when he was stabbed by the Judge, is not entirely free from apparent discrepancy. Mr. Pope says, he (Rothwell,) was standing close to where Dr. Wilkinson was lying on the floor, under the blows of Holmes and others; that he was apparently leaning over the prostrate doctor, when he was stabbed by the Judge; Mr. Hardin would have you believe, that his proximity to the doctor, and his stooping position over him, were produced by his endeavoring to pull Holmes off the doctor and release him. But Pope tells you that he was among the first to assail Murdaugh, with his club. In that he displayed no amicable, or pacific disposition towards the doctor, for it is evident from all the testimony, that his feeling towards Murdaugh, may be fairly taken as the *sample* of his feeling towards each of the others. He did not attempt to rescue Murdaugh from the rush that was made upon him; on the contrary, he struck him with his cudgel. It was not therefore, to release the doctor from the giant grasp of Holmes, that he was leaning over him. For what then, gentlemen, let me ask you, was he standing stooped over him? General Chambers gives the answer. He had struck the doctor with his hickory stick, and was balancing it in his hand to repeat the blow, when the Judge stabbed him. General Chambers did not speak of his stooping, yet he may have been, and probably was stooping, as Mr. Pope states, and the General not have noticed it. Pope may not have noticed the stick in his hand and the stroke inflicted with it upon the doctor just before he was making the effort to readjust his grasp of it for another blow. To strike the doctor, who was lying on the floor under Holmes, he must have stooped, to avoid striking Holmes. Pope saw him standing near the prostrate doctor, but did not see him strike, nor did he notice the stick in his hand. General Chambers saw him in the same position, (with the exception of the stoop) strike at the doctor, and preparing to strike him again—they both saw the stabs inflicted. The testimony then of both the gentlemen is correct, and may be easily reconciled. They both saw the same transaction, but did not both see all of it. And the testimony of each, instead of contradicting, corroborates that of the other:—much took place in that scene, which was not seen by any body, and much of what was seen, was seen imperfectly, amid the turmoil and confusion, and apprehension which the affair produced—some things

were seen by one and not by another—and some important facts were not seen by any. Mr. Raily, who was a stranger to all the parties, saw some man striking with a sword-cane—who struck, or who was struck with it, he did not know; but he saw the scabbard end of the cane fall off and leave the sword bare. No other witness saw that. Judge Wilkinson was stabbed in the back obliquely, between the shoulders, to the depth of three inches, with an instrument *narrower* in the blade than any weapon known to be employed on that occasion, unless it were the sword-cane. The wound, according to the opinion of Doctor McDowel, who examined it, looked as if it might have been made with such a sword—such too, was the character of a wound which Rothwell had received in his breast, and nobody knows how, or from whom he received it; and which, according to the testimony of the Doctors, was the *immediate* cause of his death. Judge Wilkinson, too, received several blows, as was apparent from contusions on his face and head; and yet, with what weapon, or by whom inflicted, nobody knows but he or they who inflicted them. I mention these facts, gentlemen, to shew you that as much occurred which was not seen at all; so, of what was seen, many parts might have escaped observation or been seen very imperfectly. All the witnesses, however, saw that the Doctor was knocked down and beaten most unmercifully. Oldham claims the credit of knocking him down—Holmes is proved by all who saw the transaction, to have been upon him and engaged in beating him, assisted by Rothwell, when the latter was stabbed by the Judge. Halbert claims the credit of having contributed several blows. You see what a giant Oldham is, and it is proved that Halbert and Holmes were larger, and Rothwell as large as he, and all of them at least as stout—can you hesitate to believe that the Doctor must have perished under their violence, if the Judge had not come to his rescue at the very moment when he stabbed Rothwell? Holmes was also stabbed with a bowie-knife through the right arm—the Judge only used a knife of that kind on that evening, and, therefore, must have stabbed Holmes, though nobody saw him stabbed, or knew who stabbed him. By the use of his bowie-knife upon Rothwell and Holmes, he saved the life of his brother, and in all probability his own life and that of Murdaugh.

It is very probable, that, infuriated by the death of Meeks, they would, with the aid of their maddened associates, have killed the Judge and Murdaugh, as well as the Doctor.

But it is contended by the Counsel for the prosecution; first, that the Doctor's life was not in danger; and, secondly, that if it was, the Judge could not lawfully kill the assailants to save his life. Upon the first of these points, I will not detain you. It is a

matter, upon which you have heard the evidence, which all converges to prove, that his life was in imminent danger, and that it was only saved, as I have stated, by the seasonable and intrepid interposition of the Judge. He had been already beaten to a mummy, and was, at the instant of his rescue, being farther beaten by the cudgel of Rothwell, and the ox-like knuckles of Holmes. The second is a matter of law upon which I did not suppose there could have existed a doubt in the mind of any lawyer, nor, indeed, of any human being of properly organised medruff; for it seems to me that nature proclaims in the unvitiated feelings of every man's heart, what the law is upon this subject—the lecture given by the father to his sons, and illustrated by the bundle of rods in the spelling book of Old Dilworth, inculcates the true law upon this subject. But, gentlemen of the jury, let me call your attention to the law of England; and of this Country; and of all communities, barbarous, as well as civilized, upon the same point; for it is a law of nature, and of course universal: In Blackston, 21st n. p. 184, speaking of the right of *self-defence*, that author states that "they cannot, therefore, exercise this right of preventive defence, but in sudden and violent cases, when *certain* and *immediate suffering* would be the consequence of waiting for the assistance of the law;" and having in the next page laid it down as a law of universal justice, that a man, when the attack is so fierce that he cannot retreat without manifest danger of his life, or *enormous bodily harm*, may, in his defence, kill the assailant *instantly*." In page 186, he states, that "under this excuse of self-defence (referring to the law I have read,) the *principal*, *civil* and *natural relations* are comprehended; therefore, master and servant, parent and child, husband and wife, killing an assailant in the necessary *defence* of each other respectively, are *excused*; the act of the *relation* assisting being construed the same as the act of the party himself." Now, I ask, if the relation of brother with brother, is not a *natural* relation? If it is, then it is comprehended in the law I have just read to you from Blackstone. The counsel for the prosecution, seem to think because this relation is not specifically named by Blackstone, that it is not within the principles laid down by him. They have *erred* (they will pardon me), in construing his words. There are but two kinds of relationship which can exist among mankind; the first is the *natural*. The second political, or civil. The author illustrates the last, viz: the civil, first, by the example of master and servant; and the *natural*, by the examples of parent and child, husband and wife. He does not pretend to enumerate all the relations of either kind but gives examples, *one of the civil*, and *two of the natural*. They outrage nature, by giving to the artificial relation of master and servant, the ascendancy over the natural and endearing relation

of brothers and sisters with each other. I say they outrage nature; for what man in his senses can believe, that the servant is under greater and stronger obligations to defend the master, and the master the servant, than the brother is under to defend his brother or his sister? Feeling, it would seem to me, decides this question at once by intuition—but upon the supposition (for argument) that my interpretation of Blackstone is wrong, still the gentleman will have gained nothing—for the relation of brother with brother is at least a *civil* relation. A brother in the absence of other heritable relations, can under the law of the land, inherit the estate of his deceased brother. But I go farther, and assert that the relation of citizen to citizen is a *civil* relation, within the meaning of Blackstone, and a mere citizen may, to save the life of his fellow citizen, slay the man who assails it. And I will add to the authority of Blackstone, that of Lord Hale. That great and good Judge, in the 1st vol. of his Pleas of the Crown, at p. 484, speaks thus upon this point. "If A, B and C be of company together and walking the field, C assaults B, who flies, C pursues him, and is in danger to kill him, unless *present help*. A, thereupon kills C in defence of the life of B. It seems that in *this case* of such inevitable danger of the life of B, this occasion of C, by A, is in the nature of *se defendendo*, &c." And again, the author in the same page proceeds, "If A be travelling, and B came to rob him, if C fall into the company, he may kill B in defence of A and therefore, *much more*, if he come to *kill him*, and such his intention be apparent. For in such case of a felony attempted, as well as of a felony committed, every man is thus far an *officer*, that at least his killing of the *attempter*, in case of *necessity* puts him in the condition of *se defendendo*, in defending his neighbor." So you see, Gentlemen of the Jury, that the counsel for the prosecution have misconceived or misrepresented the law: I hope they misconceived it. Let me refer you to a law from recollection, not under the denomination of a *law*, but a *fable*. I read it when a boy in Dilworth's spelling-book—"two friends (I quote from memory) setting out on a journey together, agreed in case of any danger, to stand by and assist each other. They were assailed by a large bear, one fled and climbed a tree, the other not being able to escape, nor alone to defend himself, fell down and pretended to be *dead*. The bear came up and smelled him, and from his silence and motionless posture, supposing him to be really dead, walked off and left him unharmed. When the bear had disappeared, his companion descended from the tree and asked him what the bear had whispered in his ear—he replied that the bear had cautioned him against confiding (through the balance of his life) in the promises of a *false friend*." This fable implicates the same principle of natural and municipal

law, which is promulgated in the passages from Blackstone and Hale, which I have just read to you. Namely, that you may justifiably, nay, that you ought to defend the life of even your fellow-citizen, by taking the life of him who attempts to destroy it. Hence I argue that it was not only the right, but the duty of each of these three gentlemen, who were friends in their own state, and in their travel to this state, to defend the life of each other, by taking the life of those who assailed it.

Suppose they had travelled by the old route from the place of their residence to this state, and had been assailed by the same persons, with the same violence and ferocity, at an intermediate tavern, instead of at the Galt House. To make the case stronger, suppose that tavern had been in the wilderness, within the Indian territory, where there was neither government or laws, might not the Judge in that case have defended the lives of his friends and associates? They will perhaps yield that he might, because of the absence of legal protection.—I reply that if he might on that account, his right to do so, must be derived from the law of nature, and government leaves all her citizens in the full possession of the natural right of self-protection, where she cannot or does not protect them. Well, at the Galt House they were as unprotected by the laws as they would have been in the case supposed.—Therefore, both by the municipal law, and the laws of nature, the Judge had the right to kill Rothwell to save Doctor Wilkinson from great bodily harm, or the loss of his life, even if he had been unconnected with him by the ties of brotherhood—and therefore each might have destroyed the assailant of the life of the others. And if the party assailing them were acting upon concert between themselves for that purpose, each of the assailed, might the moment one was assaulted, have killed as many of the conspirators as he could, and he would have been justified by law in doing so. But I have spoken of the conspiracy, and am considering the cases, as though none had been formed. When the person assaulted, *honestly* believes that his life is endangered by the assault, he may kill the assailant. The law to that effect has been read by Col. Robertson and stated by Mr. Prentiss. Mr. Hardin scouts at this statement of the law, and ascribes to the inexperience of the young man, as he is pleased to style him, his erroneous notion of the law. Gentlemen, you find it both in words and import as Col. Robertson read and as Mr. Prentiss has stated it. It could not in the nature of things be otherwise; the man assailed has not time under the pressure of the assault, to consult others as to the degree of danger to his life resulting from any particular stage of the assault, or degree of its violence. No one else could judge so well, no one so much interested in judging correctly as himself; he might loose his life

by intermitting his defensive energies, while he sought the opinion of others—his life was committed by nature to his *own* protection, to the protection of his *own mind* and muscles; and not to the opinion of others. And man, I repeat, in the absence of the protection of the law continues, in this respect, in the condition in which nature placed him. It is upon the *honest*, not *feigned* belief of *danger* to his life, or of great bodily harm that he may destroy his assailant. Mr. Hardin says, it will not do that the assailed honestly believe the danger to be present and urgent, it must be really so. Let me suppose a case. A and B quarrel, high words pass, A swears that he will kill B, draws a pistol from his pocket, and presents it cocked, to his breast; B instantly thereupon draws his pistol, and shoots A through the heart, and upon examination it turns out that the pistol of A was empty when he drew it and presented it to the breast of B. In this case it is evident that B was in no *real danger* from the pistol of A. Shall B be condemned and executed for the murder of A, because his *life* was in no *real danger*, or shall he be acquitted upon the ground, that he *believed* his life to be in *danger*, from the pistol of A, and therefore justifiable in killing him under that belief? Can any man, even Mr. Hardin, entertain a doubt upon this case? Mr. Prentiss therefore, stated the law as it really is, and as it must from the necessity of our nature, always continue to be. Men are not equal in moral and physical courage; a timid and a brave man would destroy their assailants upon different degrees of danger, the former upon less imminent danger, than the latter, but each upon an *honest belief* of its threatening imminence, upon an *honest belief* that his life was in danger: shall the one expiate the weakness of his nerves upon the gallows, while the other is justified, and applauded? Each was under the same obligation to preserve his life, and each exercised honestly all the faculties, with which the great author of life had endowed him. The doctrine of Mr. Hardin is at war with the nature of man, and the principles of his social condition. Then if Judge Wilkinson believed honestly, that his brother was in danger of great bodily harm, or of losing his life from the assaults made upon him, he had a right to kill the assailants, even if the danger were not as imminent as he supposed it to be—for a person who kills the assailant of his relation, stands in contemplation of law, in the place the assailed would have stood himself, had he killed the assailant. But why talk of the belief of danger in this case, when there is no reasonable man who has heard the testimony can doubt of its reality? The doctor had already, when rescued by the judge, suffered enormous bodily harm. He had been deprived of the power of self-defence, and was falling an easy victim to the violence which Holmes, Roth-

well, and Halbert, were inflicting upon him. Rothwell had struck him with the club, as General Chambers proves, and was stamping him with his feet, (as Mr. Pearson proves) when the Judge stabbed him. But Mr. Hardin thinks he should be punished for stabbing him in the back. *The gentleman has high notions of chivalry*, and is shocked at its violation in this instance by the judge. He forgets that this assault was not commenced in a chivalric spirit, nor upon any principle of *fairness* known to chivalric men. When the judge came to the relief of his brother, that brother *one* and alone, was under the fists, feet, and clubs of *three* of the largest and stoutest men in the state, and yet Mr. Hardin will have it, that the judge should have waited, until the *three* had killed his brother, and until it was convenient for Rothwell thereafter to present his breast. Or perhaps, according to Mr. Hardin's notion of gallantry the Judge should have asked him to present his breast, that he might approach him *a-la-mode*. If such be his taste, he may consider the first thrust to have been an efficient request to that effect. And the second, to have been made when he had, according to the intimation of the first, turned towards the judge, to inquire into its meaning. But a sufficient excuse to the cavilings of Mr. Hardin upon the point of mobocratic chivalry, is that the judge was inexperienced in broils, knew nothing of either their practice or theory, that his education and habits of life were anti-pugilistic. He had neither muscular aptitudes nor mental aspirations, for distinction in that line, and if he had possessed all the excellence in chivalry, of which Mr. Hardin can conceive, the occasion did not afford an apt theatre for the display of it. And again, he was acting under the spur of relentless necessity, which left him no choice of modes of action, no leisure for the observance of etiquette. He had but one purpose, and that was to save the life of his brother. That object he achieved with the greatest possible economy of the blood of the aggressors; he might justifiably have slain with his bowie-knife many others, and it is wonderful under the circumstances that he did not. He must have been very self-possessed, or he would have killed more than Rothwell. It is evident from the proof, that he did not aim to hurt any but Rothwell and Holmes, and it is equally evident from the proof, that by killing one and wounding the other, he saved the life of the doctor, and very probably his own life, and that of Murdaugh.

Gentlemen, I have not called your attention to the proof in detail—I shall not attempt to collate and analyze it; that task has been performed ably and eloquently by the gentleman whom I follow on the same side. You must have perceived the artifices by which Mr. Hardin attempted to evade and blunt the force of the testimony of many of the witness-

es on the side of the defence. You could not fail to observe, and I hope with indignance, his attempt to disparage those of our witnesses whose testimony he could not twist to his purpose. Let me call to your recollection the instance of Doctor Graham, a gentleman of known integrity and high standing in your county. The testimony of that witness satisfied every body who heard it that the accused were assailed ferociously, and placed under the necessity of acting as they did. How did Mr. Hardin dispose of it? Why, by telling you that he is the owner of the Greenville and Harrodsburgh Springs; that the Mississippians spend their money freely, and that it is a great object with the doctor to conciliate them and get their custom. Mr. Raily, who is as respectable a man as any in the community, and as respectably connected as any man in Virginia or Kentucky, whose father was full cousin to Thomas Jefferson, and whose high intelligence was evinced by the clear manner in which he gave his testimony, is branded by Mr. Hardin with cowardice, because as he told you he ascended when the affray commenced to the sill of one of the windows upon which being an entire stranger he stood and looked on. Mr. Hardin derided that act of prudence, as an act of embarrassed timidity, and compared him standing there to a turkey-buzzard perched on the top of an old dead tree. General Chambers, whom he knew to be an honorable, intelligent and upright man, and one who would not be very patient under any disparagement, he prudently passed. In the same way he passed Mr. Pearson, a gentleman of cultivated mind and manners and of unimpeachable integrity; and then again he selected Mr. Trabue as a man of such iron nerves that he could look upon blood and carnage with the composure of a stoic, and urged you to regard him and Mr. Pope as the only witnesses who were composed enough to observe calmly and accurately the actings and doings of those concerned in the horrific scene; and thereby intimating, by implication, that Montgomery, Chambers, Graham, Pearson and others, were so embarrassed and confused by their fears as to be incapable for the time of correct observation.

I barely mention these things to show you that his zeal to convict the accused displays itself vindictively, in some way or other, towards all the witnesses whose testimony thwarts his main purpose.

I fear none of the testimony, and wish you to consider it all and give credit to as much of it as you can. I have before said all I mean to say upon the credibility of the witnesses. It is not agreeable to me to awaken unpleasant sensations in witnesses by unkind comments upon their evidence, and therefore I forbear to comment upon that of Redding, Johnson and Oldham.

Gentlemen of the Jury—I have been endeavoring to convince you that Judge Wilkinson, under the in-

controvertible facts proved in this case, was, (apart from the foul and nefarious conspiracy by which he and his friends were attempted to be beaten and degraded,) justifiable, under the most rigid operation of the law, in taking the life of his brother, and that if he had not done so to save the life of his brother he would have justly drawn upon himself the contempt, scorn and derision of all honorable men, and what is worse, if possible, of the ladies too, for they admire a kind not less than a stout heart in man.

Gentlemen of the Jury—I leave Judge Wilkinson with you. I have not been as much concerned about the legal as the moral aspect of his case. His is not a common case, for in common cases a mere *legal acquittal* is the desire of the accused and the aim of his counsel; but to a high-minded, honorable man, like the judge, a mere acquittal upon the dry law of the case has but little to recommend it. A gentleman who would at any and all times sacrifice his life to preserve his honor, can be but little pleased with any efforts of his counsel which, by overlooking his honor, aim at saving his life. My aim, (and such I am sure has been the aim of his counsel who have preceded me,) has been to manifest to you and to the public that Judge Wilkinson and his friends have throughout this unhappy affair acted up to the most punctilious requisitions: not only of natural and municipal law but of the strictest honor and the sternest morality. We have entertained no fear of a conviction throughout the case; we represent men who do not place a very high estimate upon *mere animal life* otherwise than as it subserves the higher purposes of human existence—men whose lives are in their *honor*, and can only be reached by sullyng it—and I have dwelt longer upon the Judge's case in the view to rescue him from the slurs attempted to be thrown upon his honor by the imputations and evenommed inuendoes of Mr. Hardin than for any other purpose. The case of each of the three is in its *legal aspect* the case of all; for they were all assailed by the same vile coterie and for the same nefarious purpose, and they all resisted with a bold and unquailing spirit, each as he best might under the circumstances of attack. The act of each necessarily tended to the protection of all, and none had cause to reproach the other with the want of energy or spirit.

Let us pass from the Judge to Mr. Murdaugh, and in doing so we pass over the *Doctor*. There is no proof that he uttered a word, and it is abundantly proved that he was disabled by brutal violence from performing an act in this drama—let it be remembered to his credit that he did not quail—he did not supplicate the merciless mob, and would have died in dignified silence had he not been bravely rescued by his brother. Mr. Hardin says of Murdaugh, that when accosted by Mr. Redding he held up his hand showing to all the blade of his white-handled

knife, and declared with an emphatic oath that he would kill any man who laid hands upon him. This conduct he thinks evinced a sanguinary intent—a bloody purpose. No doubt of it; but it was a purpose of defence, not assault. He did not conceal his knife to plunge it by surprise into the breast of the first assailant; but openly and bravely showed it to all, and warned them at the peril of their lives to stand off.

But Mr. Hardin finds in his reply to Redding, namely, that if he or any other man said that he had drawn a bowie-knife upon Redding in his shop he told a damned lie, the same or rather a continuation of the same evil spirit which he had evinced in brandishing his drawn knife. That he evinced in the latter as in the former instance a brave and determined spirit I readily admit; and the mob who assailed him were silly not to have perceived and been restrained by it. It was a fearless and defying spirit which he was happy in possessing and wise in displaying—a spirit which, instead of thirsting for blood, panted to avoid the effusion of it. Gentlemen, all that is ascribed to Mr. Murdaugh by Mr. Hardin, according even to his most unjust interpretation of it, did not justify the assault made upon him by the unfortunate Meeks and Rothwell—words do not in law justify blows. They, however, according to all the testimony made the assault upon him, before he had done anything towards them more than to warn them what would be the consequence in case they did assault him. But the nature of that assault did not, in the opinion of Mr. Hardin, justify him in the defence which he made. Meeks seized his knife-hand and commenced cowhiding him, while Rothwell belabored him over the head with a large hickory club, gashing his head at each blow as you perceive by the scars. Where now is the spirit of chivalry which produced in the mind of Mr. Hardin such strong reprobation of the stroke which Judge Wilkinson gave Rothwell? Was it chivalric for the two, Meeks and Rothwell, to beat Murdaugh *at the same time*, one with the cowhide and the other with a cudgel? The one to hold him by his knife-hand and degrade him with a cowhide while the other was beating him to death with a club, and others (for such is the testimony) beating him with their fists? Surely this was not only cruel but cowardly—especially in the opinion of so gallant a knight as Mr. Hardin—but according to the views of that gentleman, Mr. Murdaugh should have *run* as far as he could before he killed his assailant, and he did not attempt to *escape* by *running*. He read you the law to that effect from Blackstone. Gentlemen, I have always contended that the law which he has read, and which I admit to be the law of England, should, (though adopted by our constitution,) be construed *by us* according to the genius and spirit of *our* free institutions. It should not *here*, where we are all equal

and where there is no distinction but that which exists between the good and bad, be construed to require a man to *run* from his fellow man, for with us a *free man* has no *superior*. "The laws of several nations," says my Lord Hale in vol. 1st, p. 489, "in relation to *crimes and punishments differ*; and yet may be excellently suited to the exigencies and conveniences of every several state, so the laws of England are *sui*ted to the *conveniences* of the *English Government, &c.*" And even in England, in some cases, they give to the law the construction for which I contend—even there when one man assails another upon the King's *highway* the assailed need not retreat or run. Every law should be interpreted not only according to the nature and genius of the government, but to the circumstances in which the accused is placed at the time. The reason he need not run, *there*, is, because he is on the King's highway, and authorized by the *virtual* presence of His Majesty to protect himself as fully as the king, were he *really* present, could protect him. Gentlemen, the *free citizens* of America are as much authorized in every part of the republic to defend their lives as the *subjects* of the King of England are upon His Majesty's highways. The *paths* of *freemen* are all sovereign highways or the highways of sovereigns. Freemen are always in the real presence of majesty—they are themselves *in loco regis*. They are themselves sovereigns, and there never was a law which required a sovereign to run from a sovereign. The very idea is absurd. Another reason why the law of England requires a subject to run when assailed out of the real or putative presence of the King, is that *there* the *man* is sunk and merged in the *subject*. *Here* with us the man is exalted to the sovereign—every freeman has around him a zone of inviolability, an odour or aroma of sovereignty. There, there is a graduated series of subserviency in the organic structure of the government, from the King down through the *titular ranks* to the lowest vassal. *Here* there is, as I have already told you, no disparity between men. There the King is the fountain of all honor and possesses exclusively all the attributes of sovereignty. *Here* the people are the fountain of honor and the sole sovereigns. There the subject may be degraded without dimming the lustre of the diadem—*here* the citizens cannot be degraded without sullying the sovereignty of the nation.

How long, gentlemen, think you would the freedom of the people last, after they had been fully trained to *running* (according to Mr. Hardin's view of the law) each from the other? But *cui bono* require him to run? for when his flight is impeded by a wall or any other impediment he may slay his pursuer. Why may not his honor, the spirit of freedom and the pride of his own conscious self-worth, constitute the wall or impediment? Can it be expected of men whose spirits have been trained

to run from their equals, who have *no honor of their own*, that they will rush to the standard of their *country's honor*? But what is their country's honor? In what does it inhere, and where is it garnered up? Let the gentleman answer me these questions, and then tell me that when he is exposed by the assault of his fellow citizen to the danger of losing his life, or of great bodily harm, he should run from his assailant.

Sirs, the honor of the country is garnered up in the breasts of her citizens. It is the oxygen gas that sustains, animates and warms their souls, and spurs or allures them on to enterprises of goodness and of greatness. It is a sparkling nectar quaffed only by *freemen*. It is the elixir of moral life. Gentlemen, be assured that the man who will run from a domestic, will run from a foreign enemy; for man is a unit. Teach him by your laws to run away and you will in vain expect him to advance upon his country's enemies. In England the King makes war at his pleasure and fights through it with an army of vassals reduced by discipline into a mechanical compaction. There, the army is a mass of automatons, a mere machine. Here, the people declare war and fight through it with armies of freemen. There, the sovereign declares war and fights its battles with armies of vassals. Here, the sovereigns declare war and themselves constitute the soldiers who fight its battles. *There*, bravery or cowardice in the soldiery is a matter of indifference. *Here*, bravery in the soldiery is essential—is a *sine qua non* to success. Is it wise then, I would ask you, gentlemen, to construe our laws so as to enfeeble or extinguish this spirit of our citizens—a spirit upon which not only our free institutions but our very independence as a nation depends? What would we say of the wisdom or foresight of the farmer, who, instead of destroying the weeds which infested his corn as it grew in his field, would destroy his corn and leave them to grow and flourish? But this construction of the law for which I am contending is not necessary for the justification of Mr. Murdaugh. His case does not need it. He was so hemmed in by the conspirators and the bar that he could not run if he *would*, and my word for it he *would* not if he could. Gentlemen, these three strangers are not of the running breed. They are not from a state where the running breed is much esteemed—where that spirit is countenanced and propagated. The state of their residence is not yet old and degenerate enough to patronize that description of men—besides, the sun, whose influence is mighty in the concoction of the fluids of animal as well as vegetable life, does not in that climate much favor the concoction and growth of dastardly spirits. But he could not, gentlemen, as you must be convinced, have even given back. He did all that he could and more than many men would have done;

for, under the lash of the cow-hide, and the blows of the cudgel, and fists of his assailants, he took the knife out of his right hand which was held by Meeks, into his left hand, and by such exertions as he could, with it extricated his right hand from the grasp of Meeks, and with it resumed the knife, and by killing Meeks rescued himself from the vile band of conspirators who had assailed him; and thus saved his life. Was he, under the facts of the case, justifiable in doing so? Could he have done less, or having done less, could he have saved his own life? I think I hear each man of you say to himself that you applaud him for what he did, and only regret as good citizens that from his feeble structure and the overpowering odds against him he was unable to have done more. I predicate my supposition of your regret that he was unable to do more upon what I know to be the abhorrence which every good man feels of lawless conspiracies and of mobs. Mr. Hardin has charged a mobbish spirit upon the Mississippians. He has overlooked the mob against the *Ursuline Nuns*, in the land of steady habits, and the frequent and triumphant mobs in New York and Baltimore, and fastened his eye upon the mob which took place at Vicksburgh, some years ago. He multiplies that into many, and clothes it with terrific horrors. With him I reprobate all mobs; but I detest more especially those that are formed against helpless innocence, as in the case of the defenceless Ursulines, or against the tranquility and good order of society, as in New York and Baltimore; but it is the province of intelligence to analyze and graduate even crimes. I conceive that there were some palliating circumstances in the affair at Vicksburgh. It was not a deliberate, cold-blooded conspiracy of the *bad* against the *good citizens* of the place. It originated in the sudden and misguided zeal of orderly citizens against a conspiracy of gamblers—it was an evil not unmingled with some of the elements of virtue and goodness.

Those gamblers had killed a native citizen of Kentucky, who was a stranger there, enjoying the hospitality of the place—irritated with their vocation and excited to madness by the tragic manner in which they had violated the laws of the land and principles of hospitality in the assassination of Doctor Bodly, suddenly, and in a paroxysm of resentment, they hung some two or three of the gamblers. Judging therefore of the Vicksburgh mob from its object and its cause, I find in it many mitigating circumstances; but am far, very far from approving it. I repeat that I reprobate all mobs—even those which are raised and exerted on the side of virtue and the laws—but what has that mob to do with this?—how can it mitigate the conduct of the mob in this case or aggravate the condition of the defendants? Does the gentleman wish you to appease the *manes* of the *gamblers* who perished in that

case by sacrificing the lives of Messrs. Wilkinson and Murdaugh in this, because they are Mississippians, though not residents of Vicksburgh? Or is he attempting to palliate the foul conspiracy in this case by offsetting it against that, and thereby to weaken the defence of the accused? That cannot be his object—it would be too absurd. His object must have been to excite your indignation against the conduct of the Mississippians in *that case*, and transfer the odium of it to the accused because they are from that state.

But let me tell him that if he hopes to gain any thing by exciting the passions of this jury he miscalculates. He is not now amid the fervors which this case excited where it happened. He cannot here produce the volume of passion which the false and erroneous misrepresentations of the conspirators produced there, and to the propagation and extension of which, he, by the force of his acknowledged talents, exerted before the examining court, contributed. *Here* he cannot, as *there* he did, to a considerable extent, excite the mechanics and working classes against gentlemen slave-holders and cotton-planters. Thanks to a just Legislature, we are now before a tribunal uninfected by passion and without any predisposition to take, even by contagion from him, the maddening infection.

He cannot hope to disparage the accused before any rational tribunal by inveighing against the habit of wearing arms. Strangers and travellers have been allowed, in all countries and by all people, to wear them—and even citizens of the meekest and purest characters have worn them in their own country, aye, and used them too, upon occasions far less urgent than that of the accused. It is wise sometimes to wear them in large commercial cities. Even in Louisville it is prudent for strangers to wear arms. The knives of the defendants saved their lives at that place beyond all doubt. Now the resident population of that city is as worthy, as peaceable, and as orderly as the people of any place whatever; but there is there, as in all other commercial cities, a floating mass of people who prowl the streets, especially at night, from whom all who might be supposed to have money or other valuables have much to apprehend. When I say the wise and meek have carried arms, and used them too, I allude to the Apostles: you all remember that the apostle Peter drew his sword and smote off the ear of the high priest. This is an instance in which arms were not only worn, but used to protect a friend.

Gentlemen of the Jury—I repeat what I said before, that the wearing of arms by citizens within the jurisdiction of their state, and in the bosom of society, is an evidence of the weakness and degeneracy of their government. The object of government is to protect the good and the virtuous against the bad

and the vicious portion of mankind. When the *good* wear arms it is evidence that they cannot confide in the government for protection, and are obliged to rely upon their own vigilance and energies to save themselves from the bad. And whenever good men use their arms efficiently and successfully, and tragically if you please, against the mob or a conspiracy by which they are assailed, instead of the animadversion of the government they are entitled to its thanks and its gratitude. Sirs, I speak the language of soberness and truth when I tell you that the fall of Meeks and Rothwell, (which we all deplore,) by the arms of the assailed, has done more, by ten-fold, to repress and put down mobs and conspiracies in Louisville, and throughout the state of Kentucky, than the execution of those ill-fated men by the government for the killing of one or all of the accused, had the accused fallen by their hands. There would be no mobs if it were certain that one or more of those who form the mob would certainly be killed. The principle of combination in a mob is, as I have before told you, cowardice. Each would *fear* that *he* might be slain, and thus, and for the same reason, every other man of them would abstain from the combination. Those assailed therefore by a mob should be considered by the people of every state as authorized by the government to kill as many as possible of the assailants; and so indeed they are to be considered, under a wise and just interpretation of our laws, which, when they cannot protect the citizen leave him to protect himself under the paramount authority of the law of nature.

I say boldly, but calmly, that Murdaugh and the Judge are entitled to the commendation instead of the reprehension of all good men, who believe as I do, and I am sure you must, that they acted each in defending himself and friends against the assaults of an infuriated mob—but I was speaking of the case of Murdaugh, so far as it presents itself as an individual case, and urging that in view of the position he occupied, and the aggregate force and physical violence with which he was assailed, he was strictly and under the sternest construction of the law justifiable in killing the unfortunate Meeks.

And, Gentlemen of the Jury, I cannot pass over a fact in this case, to which I have as yet paid no special attention: I mean the attempts to degrade Mr. Murdaugh, (and with and through him, the Judge and the Doctor,) by the stripes which Meeks repeated upon him with the cowhide. Recollect the testimony of Oliver, from which it appears that such was the determination of the conspirators to degrade, as well as beat the accused, that Meeks prepared the cowhide for his grasp, by knotting the small end of it. You cannot doubt, but that it had been settled by the conspirators that he was to apply the cowhide to their backs while they used their cudgels, knives, and

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other weapons in protecting him while going through the process. Hence the rush of the conspirators around Murdaugh when Meeks had seized his knife hand, and commenced upon him with the cowhide, and hence the readiness with which he surrendered to Oliver the knife with which he had armed himself, before the task of using the cowhide had been assigned to him. And hence it was that he was selected to use it, being the *smallest man* among them, to enhance, by his *smallness of stature*, the contemplated degradation.

Now, gentlemen, Mr. Hardin, a Kentuckian, tells a Kentucky jury, aloud too, in the hearing of perhaps a thousand Kentuckians, and what is more astonishing, in the presence and hearing of near two hundred ladies, matrons and maids, that Mr. Murdaugh was in no danger of being hurt by a *small cowhide* in the hand of a *small man*—that he was in no danger of being wounded, maimed or killed by the cowhide, and that therefore he had no right to kill Meeks for applying it to his back; and he quotes the aforesaid law of England, which requires a *liege subject* to give back, and flee from his fellow subject until obstructed by a wall, or some insuperable impediment, before he kills his assailant, and then he can kill only to save his own animal life, and not the life of *himself* from the degradation of being cowhided!!! Sirs, how did you relish the law and the reasoning of Mr. Hardin upon this subject—do you believe with him, that the man, like the hog, consists in mere animal structure? that like that animal he suffers only from violence, inflicted upon his natural organic nature? that his pleasures, and his pains, consist alone in animal sensation, and that all the attributes of excellence in his character are essentially in bone and muscle?

Ask any of those matrons, who adorn the bench above you, what she would think of a young man, who was addressing her daughter, with his back striped by the prints of the cowhide? Ask her daughter, what she would think of such a suitor! Can you doubt the reply. Would not such a man be loathed and scorned by both mother and daughter? Sirs, there are sins against individuals, as well as sins against heaven, which can only be expiated by blood—and the *law of Kentucky* is, that the man who is attempted to be *cowhided*, not only *may*, but must, if by any possibility he can, *at the time*, kill the man who attempts thus to degrade him. I do not refer to a law of Kentucky, enacted by the Legislature of the State, I mean a law paramount to any enacted by the Kentucky Legislature, a law that emanates from the hearts of the people of Kentucky and is sanctioned by their heads—a law that is promulgated in the *os ad cælum* of every Kentuckian, and proclaimed in the sparkling of every eye of both sexes and all ages—a law, the force of

which, every one feels, the import of which every one perceives by intuition. It is a law of *Kentucky instinct*—none are so ignorant as not to know this law; few are so dastardly as to deny its injunctions.

Gentlemen, in Kentucky, as in all the slave States, the cowhide has a meaning and associations, which are not known in England and those of our own sister States where slavery does not prevail; it is employed only to correct slaves—slavery and freedom are antipodes. The first, with us means the *nader* of human degradation; the latter, the zenith of human rights, or rather of political and civil rights. The slave is considered a mere animal, a biped, without any of the attributes of political character. Whether this relative position of the slave and citizen, is right, or wrong, is not now to be discussed. The relation of slave and free citizen exists, and we cannot help it; the destiners so ordered it, and the sentiment, which I urge as the *Kentucky law*, is but a promulgation of the principles of fitness, which result from that relation. It is a sentiment identified with our souls, hearts and heads, and constitutes an essential element of our moral entity.

Gentlemen, I wish to be understood upon this point. I understand the term man to mean a moral being, and his animal body to be a mere casket, made to contain and preserve the *jewel*, the *morale*, which is really and essentially the man. That the moral man being immortal, and of celestial origin, and enclosed in a machine so fearfully and wonderfully made, is under a high obligation to vindicate the safety of that machine so essential to the performance of his moral functions, during his occupation of it; and I consider the obligation of man to preserve his moral nature from degradation, stronger than to preserve his animal structure from destruction. Degradation is the destruction of the moral, as decollation is the destruction of the physical man. Now, Sirs, the health of our moral nature is generally more necessary to our comfort, and usefulness, than the health and integrity of our organic structure; moral health consists mainly in sanity of intellect and unsullied honor. It is not the wound inflicted upon his body that a man, who feels and knows how to estimate his own intrinsic dignity and conscious self-worth, regards; he rates that comparatively at nothing. It is the wound inflicted upon his character and upon his conscious self-worth—his moral entity, that agonizes him; and there is no wound of that kind, that agonizes and ulcerates like that inflicted by the *cowhide*—it is incurable; and subjects him like the disease of the leper among the Jews, to be driven from the society of men. It does not, and perhaps cannot, kill the body, but it destroys the man; and by as much as the man is more important and more valuable than the body he occupies, by so much more is

it justifiable to destroy the assailant of the former, than the latter; and yet Mr. Hardin, who here admits that a man, to save his animal life, may kill the assailant, and denies that he may, to save his moral life, or rather himself, do the same. Sirs, I repudiate with all my soul the doctrine that man consists of his mere animal hulk; that he is a mere automaton. That is the definition of man in his vassal condition, of a slave, whose actions are controlled not by his own will, but by that of his master, and might perhaps be true of an oyster or a snail, but not of man in a state of freedom. As a slave, his entity consists in his mechanical utility to his proprietor. Fear with him is the stimulant, the only motive to action, and the fear of the laceration of his body with the cowhide; but man in his native freedom, or in the freedom of self-government, is an ethereal, refined, invisible and sublimated substance. He is the divine afflatus, the moral essence, with which the organized clay is inspired and animated. He is the moral being that occupies the clay tenement, and *wills* its motives and its actions, but not limited in his *powers* and *aspirations* by its limited aptitudes. The mere animal man cannot leave the surface of his kindred earth. But the real man, the moral and immortal essence, cannot, will not stay upon earth's dirty surface; will not be confined within the narrow limits of his organic tenement—except in reference to the physical needs and braces of its nature; as, to all moral purposes he ranges at large, limited only by the calibre of his intellectual energies. Newton ranged among the stars, and Milton made himself familiar with both the supernal and infernal regions. But let us appeal to occurrences in human life. Have you not, gentlemen, all, or some of you, especially in early life, been embarrassed, agitated and confused upon entering into a room in which there were ladies? What produced the embarrassment—had there been no lady in the room, you would not have been thus affected? The lady was in a remote corner of the room, say twenty feet from you, and yet she embarrassed you—how, in what manner, and by what process? She did not approach you; she continued at the distance of twenty feet from you, and yet acted upon you. But nothing can act, where it is not; and therefore she acted out of, or beyond the limits of her animal identity. Sirs, the ladies with whose audience we are honored during this trial, have been exerting a benign influence upon all within this house proximate or remote. There is, gentlemen, radiating from the physical structure of every individual, moral energies feebler, or stronger in proportion to the calibre of his intellect, which, like the light and heat emanating from the sun, act upon distant and distinct subjects. Shall, then, this aura, this aroma of the soul—shall the divine essence of volition, be tarnished, sullied, degraded,

and annihilated by the stripes of a cowhide, because the process does not threaten the destruction of the body? But, gentlemen, this subject is more distinctly and emphatically one of intuitive perception than of reasoning. In its metaphysical aspect it is different, at least to me. But I do believe that there never was a Kentuckian who would not rather perish than submit to be cowhided. It is not a matter to be reasoned about—it is a settled sentiment, inveterate and hereditary, not to be altered by any law of England, or of this country either. The man who does not, if he has it in his power, kill the man who attempts to cowhide him, had better be slain himself. Public sentiment, I repeat, expects and commands him to do it; and surely it is not necessary to any good political, moral, or religious purpose, that the privilege should be accorded to any freeman, to cowhide his neighbor. It is unequalled ruin to the man who submits to it,—it throws him into exile, in the midst of society; he is shunned by even the refuse and offal of society, loathed and abhorred. The finger of scorn and derision is pointed at him from every quarter, and even by cowards.

Gentlemen, the stroke of the cowhide over the head and shoulders of Mr. Murdaugh, was an assault upon his life more deadly than any, than all the assaults made by the mob on that evening. He could not run from the cowhide; that would have been disgraceful and dishonorable; and what a man cannot do honorably, he cannot do at all. He was obliged therefore to kill him; for that, if for no other cause. That was in itself a *legion* of causes. But without that, he had, as the proof evinces, abundant justifying cause.

But, gentlemen, let us test the matter by the good old rule, of asking ourselves, how we would have acted—what we would have done in the like case—what would we do to the man who would attempt to cowhide us; what, sirs, would we have our sons do in such a case? Let me answer for myself, and I think my answer will be yours. I am now an old man, and the blood circulates languidly in my veins; but languid, as the chillness of age has made me, I declare solemnly in the face of high heaven, and this numerous crowd, that I would, if I could, kill the man who would attempt to cowhide me; and I should think it the greatest misfortune of my life, not to have it in my power to do so, at the time; for I could not present myself to my wife and my children, after having submitted to disgrace; and I would have my son do so too—to do as Mr. Murdaugh did. I would rather he should have perished in attempting to defend his honor, than live disgraced. In the first case, I should feel bereaved, and mourn his death, but cherish and respect his memory; in the last, I should be mortified and humbled among men. I should have suspected that his

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mother of whose fidelity a doubt had never crossed my mind, had dealt foully with me, and disinherited him;—and so say you all, gentlemen, in reference to yourselves and your sons; so says every Kentucky father.

Do not mistake me, gentlemen; I rate human life as high as any man in existence; I would not trifle with it, I would not have it destroyed on slight causes. It is only when a man is in danger of enormous bodily harm, or of loosing his life that I would allow him to shed the blood of the assailant; but to *spit* in a man's face, to pull his nose, or to cowhide him, is in my estimation, the most enormous bodily harm—a harm from the consequences of which, he can only redeem himself effectually by instantly demolishing the assailant if he can. To the list of injuries and assaults which I have mentioned, I would add a kick with the foot on the *seat of honor*; but in front of these, and by far the most to be abhorred, is a stroke with the cowhide. In fine, gentlemen, a man must preserve his *honor*, it is the verdure of his soul—it is the anticipic of his nature—the strengthener and guardian of his morals. It must, I repeat, be preserved at all hazards; so says public sentiment, the tribunal from which there is no appeal.

But I will not farther detain you. I have already detained you, I fear, too long—and yet long as I have detained you, I have not, (nor has any of my coadjutors,) made any appeal to your *feelings*. No attempt has been made to excite your sympathies—no invocation of your mercy—here the cases did not need, and the high character of the accused forbade any such resort,—all they wanted, they obtained in you, gentlemen, an intelligent, honorable, and impartial jury. They have been, and so have been their counsel, more concerned about the moral, than the legal aspect of the case. They knew that they stood acquitted and justified by the law of the land whenever its impartial voice could be heard. They did not, therefore deprecate its sternest, its most rigid action upon their case; but like all honorable men, they have been keenly alive to the moral aspect of their posture. Their anxiety is, and has constantly been, that the public mind should, through this trial, which they are now undergoing, be *disabused* in reference to their conduct. You cannot but have perceived, that no concern for the *mere personal safety* of the accused, has been displayed throughout the trial. The counsel who have preceded me, have argued the case with wonderful ability, but evidently with no apprehension of a dangerous result. In fine, gentlemen, this case has been argued, through you, to the people—my arguments, had I felt concern for the safety of the gentlemen I represent, would, I feel sure, have been more annalytic and consecutive, than they have been. The gentlemen who had preceded me, had

reaped the field, and left only a few straggling stalks to be gleaned; and after such reapers no man could gather a respectable sheaf. I have not therefore attempted to take up, analyze and apply the testimony; that had been done ably and demonstrably by my distinguished and talented coadjutors, and I could not think of disgusting you, and tiring out myself by reiterating it.

I feel that I have been irregular and discursive much more so than had been my wont in years gone by; and I ascribe it in some degree to the causes I have just named. You perhaps may ascribe it to the growing weakness of senility; and to guard against farther exposure of weakness from that or any other cause, this shall be my last forensic effort. But before I close it, let me suggest, that it would be courteous to these already much injured strangers, and in keeping with just notions of national hospitality, to render your verdict (which I know well will be one of acquittal,) without retiring from the Box. I barely suggest it. *I ask nothing* from you, but the performance of your duty—I only suggest that it is your *privilege* to give in your verdict without retiring. You will exert that privilege or not, at your pleasure.

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Mr. Bullock, the Prosecuting Attorney, then rose and spoke in conclusion as follows:—

May it please the Court, and gentlemen of the jury: You, gentlemen, have not disappointed the expectations I had formed of the attention you would give to the questions of law, the evidence, and the arguments of counsel in this great and important cause. I feel a pride in considering that so intelligent a jury could have been so easily and with so little exception selected from our jury pannel. I feel no less pride in confiding to you the scales of justice, which I know you feel it is your duty to hold up steadily and with an even hand. It is no small part of my duty to see that nothing be thrown into either scale, which the law says cannot be admitted as the measure of justice.

I have listened with great admiration to the splendid effort made for the defence by one who has risen in this Court for the first time, though distinguished and honored throughout the Union for his unrivalled powers of eloquence. But, gentlemen, however much we may be fascinated, we must reflect that the brilliant flowers of language addressed to the passions, have no sympathising response in the laws of the land. All that has been said to delight the fancy and to distract your attention from the simplicity of the facts must be discarded, that your cool reason and dispassioned judgments may have free scope. And I would ask you, gentlemen, whether

in your efforts to arrive at a just conclusion you will be guided by the corruscations of the gentleman's fancy, or the sun-light of sober truth and reason.

Gentlemen of the bar will figure to themselves many foundations for their assertions, which exist no where but in their own imaginations. It is a misfortune to these gentlemen, as it frequently is to others, that the law is not to be meted out to them according to their peculiar notions of the standard of measure. It is no doubt considered by them, too, a misfortune, that when they wish to make evidence appear improbable, that does not exactly suit their views, they cannot beat down a witness by facts, but are driven to the necessity of exerting talents so transcendent as these of Mr. Prentiss, in blackening, vilifying, degrading and insulting those who are defenceless and unarmed with equal talents, or equal opportunities of displaying them. Indeed, it seems to be a matter of complaint in this defence that these gentlemen should at all be suspected of offence, much less brought here under the implication of crime. However the counsel for the defence may think it necessary to resort to such tortuous paths, I, at least, shall not follow their example. I shall endeavor to redeem a pledge I made on the outset, that I would not consume your time by travelling out of the straight path of the evidence and the law.

If Mr. Prentiss, or any other gentleman, believes that in speaking of Mississippians I alluded to their country disparagingly, I hasten to remove the unjust supposition; and I can with confidence say that in the performance of my duty I know no difference between a Kentuckian and the inhabitant of a sister State. When I used the appellation it might have been in reference to the greater relaxation of the law there respecting the use of arms, but certainly not with a view of raising a prejudice against these gentlemen on this trial.

Gentlemen, you are not to ask whether they are Mississippians or whether they are Kentuckians; you are to decide according to law and evidence, regardless of passions, prejudices or sympathies, or the complaisance due to sister States. You are also to disregard the peculiar laws and customs of those sister States, and to decide according to the laws recognized in Kentucky alone.

I will here touch upon a point not urged by Mr. Hardin. It is on the subject of character. One of the most felicitous passages in Mr. Prentiss's speech was that in reference to the character of these gentlemen, and I am willing to accord to it all that weight which the law allows—but no more. However high these gentlemen may stand in the estimation of the citizens of their own State, yet their character is entitled to no more consideration than the law allows of in cases of doubt. But where no doubt exists, are you to consider character, however

exalted, an impunity from punishment, or suffer it to wipe away from the insulted majesty of the law the stain fastened upon it by the blood shed by their hands in the Galt House? Starkie, 2d vol. page 214 lays down this rule: "Where the guilt of an accused party is doubtful, and the character of the supposed agent is involved in the question, a presumption of innocence may arise from his former conduct in society. Such presumptions are, however, remote from the fact, and are entitled to little weight, except in doubtful cases."

If these gentlemen are entitled to that triumphant acquittal—to the acquittal by acclamation invoked from you—why have their advocates, who are lawyers of great learning, thrown the character of their clients into the defence, when they knew you could weigh that subject only when guilt or innocence is doubtful. 'Tis only (and they well knew it) where the scales are equipoised, that character, like the sword of the Gaul upon the Roman battlements, can be thrown in to make either preponderate. Another thing they urge is that Judge Wilkinson, placed in such delicate circumstances as he was in regard to his contemplated marriage, would be the last to engage willingly in fight or angry controversy. Unfortunately the Judge's own conduct offers a refutation to this argument. He displays none of that forbearance and unwillingness to embroil himself in fight, when without provocation, upon a slight and imaginary insult, he attacks the poor tailor in his own shop.

Judge Rowan and Mr. Prentiss would have you believe that the common law of England should be made to bend to the peculiar circumstances of their defence. Will you, gentlemen, change the law? Will you warp, and bend the common law of England, adopted by our constitution, & to which we owe protection of life, personal liberty and property? I am well assured you will not take upon you to judge how the law ought to be bent, when you are told and must feel persuaded that you are bound to take it as it is. Were you, indeed, in another place, delegated to the halls of your Legislature, you might individually make the attempt, unavailing though it might be; but here you cannot—you ought not. Some such notions as those of the gentlemen, gave rise, I have no doubt, to the act of Assembly which I will now read—2d vol. Dig. L. Ky. page 1295, "Whereas, it is represented to the present General Assembly that doubts exist, &c., Therefore, be it enacted, &c., That nothing in the before recited act, or any other act, shall be construed to alter or change the definition and punishment of murder by the common law, &c."

Here there is a re-enactment of the common law, and here your own Legislature tells you that you must not be led away by the sophistry of counsel to believe so foolish a thing as that you are permitted

to bend the law to suit their purposes. Is the law to be warped because they conceive there is a degradation in being struck with a cow-hide? It is also a degradation to be called a fool or a liar, but the law says words are no excuse for even an assault, and where are you then to draw the line of demarcation?

There is a spirit of licentiousness abroad, which if not checked, may lead to consequences not to be contemplated without horror. This licentiousness has already been suffered to go too far. But why need I stand here to tell you of what you all know, or to defend the laws, for they defend themselves. Neither is it necessary that I should stimulate you to the keeping of your oaths, or to admonish you that you have sworn solemnly to administer the law in justice no less than in mercy. I am bound to take it for granted that you will do so. I have, indeed, an admission from the gentlemen, that the common law of England governs this case, and not adventitious notions of what ought to be the common law.

I know it is the customary resort of lawyers to ask you as jurors to place yourselves in the situation of the accused, and say how you would act under similar circumstances. My answer would be that with similar motives, similar passions, similar disregard of the laws, as well as similar circumstances, I would act precisely as they did.

These gentlemen have taken what I consider an unwarrantable liberty in denouncing the practice of lawyers taking money in aid of the prosecution, from the friends of the deceased. Yet where would now be the fame of the greatest lawyer Kentucky has ever boasted of, had the precepts of the gentleman's own ethics applied to his own practice. He cannot see the difference between the man who kills a man for his money, and the man who takes money to kill another. That gentleman himself has defended many horse thieves and highway robbers, and accepted from their polluted hands a portion of their spoils as the reward of his services in snatching them from the fangs of offended law and justice. I need refer to no stronger case than that of John Hamilton, who murdered in cold blood for his money the unfortunate Doctor Saunders. Has not Judge Rowan himself thus fed and clothed his family, fattened and grown rich upon the spoils of thieves and murderers? But still I blame him not—"it was his vocation, Hal." Why then insult my friend, Mr. Hardin, on this subject? I need say no more—the argument of course goes for nothing.

To return to the subject of these gentlemen's readiness to arm themselves for battle. Have we not proved that Murdaugh and Dr. Wilkinson upon the slightest provocation were prompt in pulling out their weapons almost upon every and all occasions. Does this argue a disposition willing to be driven to

the wall before self-defence renders the use of such weapons lawful!

Let me, before I proceed further, endeavor to wipe from the fair fame of Mr. Redding the foul and unjust stigma with which it has been branded. When I attempted to obtain from respectable witnesses, merchants of Louisville deservedly of high standing, men who could have testified to his character in proof its being esteemed as elevated as that of any man in the community to which he belongs, I was met with the assurance from the other side that they did not intend to question or impeach his character. Yet how unfairly and unhandsomely do they come in after the evidence had closed with all the vituperation of secure malignity to stigmatise him as a perjurer and murderer. [Here Col. Robertson rose to say that they committed no breach of promise, not having assailed Mr. Redding's previous character but his false testimony before this court.] Mr. Bullock:—What has he stated that is not corroborated by others whose veracity is unquestioned? He stated that he was assaulted in his own store. Are his details of that transaction unsupported by other evidence? He goes to the Mayor's office. Is that untrue? He asks for a warrant; is told he must have the names; is offered a warrant with blanks to be filled up—declines it—says he would prefer going for the names, or getting an officer to arrest the parties, knowing only one name—goes by Market street—tells his brother-in-law what happened—is accompanied by him to the Galt House—says that in the bar-room he got the names—asked Judge Wilkinson if he was not the gentleman who had struck him in his own shop. All these things are leading facts, and is he not corroborated in stating them? But an attempt is made to show a disposition to assault Judge Wilkinson in that very observation in question. "I think, sir, you are the gentleman who assaulted me with the poker in my own house or shop." What is there remarkable in that? Does it not corroborate and fit in with his statement about the names, the blank warrant, and many other things. In getting the names he was uncertain of the persons, and to assure himself asks one if he was not the person who had struck him. What could be more natural, to see that he was right?

Mr. Hardin has read to you from Foster that no words, however opprobrious, are sufficient to justify an assault—may I not ask, how much less sufficient to justify a killing? However refined and subtle Judge Rowan's notions may be of the nature and value of human life, the notion entertained of it by the law is a surer guide. The law says that by it alone you must be guided and not by vague and indefinite distinctions.

Mr. Prentiss has made a most ingenious argument to prove that a conspiracy existed against these gen-

glements: but unfortunately he lays his principal foundation stone upon Jackson's testimony, which we have proved to be a running quicksand unworthy of trust or confidence. The opposite side contend that Johnson and Redding are not entitled to credit. Well, suppose that were the case—though I am far from admitting it—but suppose the case, what then? Can we not make them a present of their testimony and throw it aside with that of Jackson and Oliver, however unwilling to let them into such company; have we not an abundance of evidence as to the leading facts—and how will the gentlemen contradict that evidence? Oldham tells you that while the affair was going on he was talking to some one about bringing a boat down the river from the mouth of the Kentucky, and that he had gone there to see that gentleman upon that subject, and had no knowledge of any conspiracy and consequently no idea of joining in it. Johnson tells you plainly how he got there—he had parted from Redding at the jail and had gone in search of an officer; that he went to the Galt House merely to see the arrest. Rothwell, it is known, accompanied Redding as his brother-in-law. Halbert boarded in the Galt House and had as much right to be there as Wilkinson or any one else. Holmes, who was his bosom friend and comrade, was there on his invitation as his guest. Might not the gentlemen as well ask how came Trabue, Montgomery and others there? Had Montgomery, who raised a chair, been killed, these gentlemen might as well be defended for that killing as for that of Meeks and Rothwell.

Another argument is, that these gentlemen were going down to supper—and I do not myself think they were bound to go through any other than the bar-room passage—yet if their object was merely to go to supper, why did Murdaugh come wrapped in his overcoat? I have no doubt that the witnesses, who expected there would be a fight, attended the Galt House for no other reason than that which is so common, throughout Kentucky as well as every where else, to be looking on wherever there is a fight; for people in spite of all we can say will have the curiosity to see what is going on even in the jaws of danger.

I thank Judge Rowan for the fine definition he has furnished of the value of human life, because I may quote what he advances on the subject in proof of the value of these gentlemen's lives, to show that the lives of Rothwell and Meeks, were to them and their friends no less valuable—no less precious. And will Judge Rowan say that we must throw the shield of the law between these gentlemen and their temporary loss of liberty, yet deny its protection of the lives of Rothwell and Meeks, to the Commonwealth, when threatened with the loss of two valuable citizens. I tell you, gentlemen, it matters not whether you believe the law ought to

be other than it is, you are bound to administer it though the heavens should fall—you are bound to administer it as it is, for you are sworn to do it.—How does Mr. Murdaugh stand on that point? who showed the first weapon? who brandished his dirk, and seemed to court the combat?

In reference to the opinions of Mr. Prentiss and Judge Rowan, that a man's right to self-defence is founded upon his own notions of right, I have a few observations to make. If that were really the law, how, in the name of common sense, could any man ever be convicted? Does the law quoted by them actually establish such an absurdity? Far from it. Their doctrine is too wire-drawn for their purpose. The words of the law say there must be satisfactory proof that the danger was imminent. I have said before, that the law presumes the guilt of the slayer until his innocence is shown; there must be evidence of that innocence where there is ground to presume guilt. We have proved the fact that Rothwell and Meeks were killed; must not these gentlemen who killed them, prove their innocence?

In reference to a point made against me, if I said as is alleged, that a man has no right to kill another who is slaying his brother, I meant to say that he had no more right from the circumstance of relationship, than he had without it; but I did not intend to deny the right of any man to prevent a killing by slaying him who is in the act of committing a felony. Now, when Judge Wilkinson made the fatal stab with his knife, is the fact proved that his brother was in such apparent and imminent danger of immediate death, as to justify his interference upon the principles of the case read by the gentleman from Lord Hale.

Gentlemen, you have been detained a great while on this trial. It is justly considered an important trial—the manifest anxiety of a crowded court evinces it—you have been told that owing to peculiar circumstances, you are to bend the law of England common to this country—that because a cowhide has been used, which here is considered a degradation; that because of these things, you are, at the request of these gentlemen's advocates, not alone to acquit the prisoners, but to acquit them with plaudits, and to excite the applause of the crowd. You are told all this, though it is known you have a grave and solemn duty to perform; though it is presumed you have heard of the majesty of the law, and though you see before you that majesty represented with such dignity by the presiding Judge of this Court. These are things not to be overlooked. If the law is to be vindicated; if it has been broken, if it has been violated, render your verdict in its vindication. If you believe these gentlemen innocent—acquit them, but do it with propriety. But I would intreat you to deliberate; and whether you vindicate the offended laws or restore the innocent

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to society unscathed, in rendering your verdict, remember that this is not a theatre, but a solemn court of justice. Gentlemen, the case is with you.  
[Concluded at 55 minutes past three o'clock.]

The jury remained in consultation exactly fifteen minutes, and upon returning to court, and being called over, gave in the following verdicts:

On the indictment for the murder of John Rothwell:—

"In the case of Edward C. Wilkinson and others, for the murder of John Rothwell, we of the jury find the within named defendants, and each of them, **NOT GUILTY** of the offence charged against them in the within indictments.

ROBERT ALEXANDER,  
*One of the Jury."*

Same verdict on the indictment for the murder of Alexander H. Meeks.

#### APPENDIX.

##### A.

The following is a copy of the petition and accompanying certificate presented to the Legislature by Defendants in this cause, for change of venue:—

*To the Hon'ble, the Speaker of the House of Representatives of the Commonwealth of Kentucky—*

The undersigned, your petitioners, beg leave most respectfully to represent to your honorable body, that they are indicted in the Circuit Court of the county of Jefferson in two separate cases for the crime of murder, and in one case each in the Police Court of the city of Louisville for assault and battery. While your petitioners feel the most thorough conviction that the disaster which led to those indictments was unavoidable on their part, and forced upon them by the necessity of protecting their persons from violence, and as they believe their lives from the most wanton sacrifice, at a time when appeal to the laws or refuge to the authorities of the country could not be thought of. While they are assured that from an impartial tribunal they can have nothing to fear, they yet assert with a confidence in which they think they cannot be deceived, that the excitement of the public mind of the city and county where these causes are pending is so intense, so deep and so general, that fair and impartial trials are not reasonably to be expected, and that they look for nothing but injustice and oppression, unless the venue of every case is changed by your honorable body to some county not contiguous to Jefferson, nor liable from its position to imbibe the prejudices or catch the contagious feeling of the populace of Louisville. Your petitioners are advised that aid in this matter of the change of venue can only be afforded them by your honorable body—and they therefore pray you will extend that aid by passing a law for that purpose.

Convinced as they are that their apprehensions are not idle or groundless, but the result of a very calm and careful, though anxious survey of the condition of public sentiment with reference to their cause, since the catastrophe out of which it grew to the present time—and, as in duty bound, they will ever pray, &c.

EDW'D. C. WILKINSON,  
JOHN MURDAUGH,  
BEN. R. WILKINSON.

JEFFERSON COUNTY COURT.—This day came the parties whose names are affixed to the foregoing petition and made oath in due form of law that the matters and things stated in the said petition are true. Given under my hand and seal, this 14th day of January, 1839.

DANIEL C. BANKS, *J. P. J. C.*

On an application of Judge Wilkinson, Dr. Wilkinson and Mr. Murdaugh, to the Legislature for a change of venue, on an indictment found against them in the Jefferson Circuit Court for murder, the undersigned have been called on to express their opinions, whether there is a necessity for such change of venue. They certify that on no occasion have they ever witnessed so much excitement as existed at the time the unfortunate event occurred, and it continued to exist for some time. Since an examination of the testimony before the committing Judge has been heard, there is not so much excitement; that the crowds attending that excitement for a week or more, sufficiently manifested the general feeling in the community. The undersigned are of opinion, that, even at this time, there would be great uncertainty in obtaining a jury who had not heard the testimony or some part of it, and formed and expressed an opinion for or against the accused. And they are of opinion that the ends of justice, as well as it regards the Commonwealth as the accused, would be better attained by a change of the place of trial from this city and county.

R. TYLER,  
J. EVERETT,  
A. TROCKMORTON,  
WILLIAM RIDDLE,  
J. M. CLENDENIN,  
JOHN I. GRAY,  
R. S. WARD,  
ABRAHAM HITE,  
H. B. HILL,  
JOHN O. COCHRAN,  
NATHANIEL WOLFE.

The foregoing contains a true copy of the petitions presented to the Legislature of Kentucky at the last session, for a change of venue, by E. C. Wilkinson, &c., taken from the originals (on file) by me, this, 26th April, 1839.

JNO. C. HERNDON,  
*Assistant Clerk H. R.*

## (APPENDIX.)—B.

The following is an authenticated copy of the act of Legislature authorizing the change of venue:—

"AN Act authorizing a change of venue in the case of the Commonwealth against Edward C. Wilkinson, Benjamin R. Wilkinson and John Murdaugh.

1st. *Be it enacted by the General Assembly of the Commonwealth of Kentucky.* That the Judge of the 12th Judicial District shall be and he is hereby authorized and required to hold a special term of the Mercer Circuit Court for the trial of criminal cases, to commence on the 4th day of March next and continue for and during twelve judicial days if the business require him so to do.

2d. That it shall be lawful for the Jefferson Circuit Court and the Police Court of the city of Louisville, respectively, on the appearance of Edward C. Wilkinson, Benjamin R. Wilkinson and John Murdaugh, in discharge of their respective recognizances entered into in said Court by reason of indictments therein preferred against them for murder and assault and battery, and upon the said accused persons and each of them directing in open court their election and consent to be entered of record, to make an order changing the venue of said cases to the Mercer Circuit Court.

3d. That when said order for the change of venue shall have been made in conformity with the second section of this Act, it shall be the duty of the Judge of the Jefferson Circuit Court and Police Court, respectively, to require the said Edward C. Wilkinson, Benjamin R. Wilkinson and John Murdaugh, respectively, to enter into recognizances in such penalty and with such surety or sureties as may in the discretion of said Judges, respectively, seem proper, conditioned for the appearance of the said Edward C. Wilkinson, Benjamin R. Wilkinson and John Murdaugh, severally, at the Mercer Circuit Court on the said 4th day of March next. And it shall also be the duty of said Courts to recognize the witnesses for the Commonwealth in said cases to attend at the said Mercer Circuit Court on the said 4th day of March next. And when the said changes of venue shall have been ordered in compliance with the provisions of this act, it shall be the duty of the Clerk of the said Courts, respectively, and they are hereby required forthwith to transmit to the Clerk of the Mercer Circuit Court the indictments\* against said Wilkinsons and Murdaugh, and likewise all bonds, writs, recognizances or other papers filed in said cases, together with full and complete copies of all orders made in said cases by the Sheriff of Jefferson County, and the Clerks of said Courts shall take from the Sheriff a receipt for the papers so to him delivered. And it shall be the duty of said Sheriff with all possible despatch to deliver said papers to the Clerk of the Mercer Circuit Court and take his receipt for the same; and upon said Sheriff producing said receipt to the Judge of the Jefferson Circuit Court, it shall be his duty to make an order allowing said Sheriff six cents per mile for each mile by him travelled in going to and returning from the said county of Mercer, which said allowance shall be paid out of the Treasury.

4th. That if either of said Clerks or the Sheriff shall fail or refuse to comply with or perform the

duties imposed upon them and each of them by this act, the party so offending shall be subject to a fine of one hundred dollars, to be adjudged against him or them by the Jefferson Circuit Court upon motion by the Attorney for the Commonwealth, upon reasonable notice being given of said motion.

5th. That the Clerk of the Mercer Circuit Court upon receiving the papers in the said prosecutions shall set the said cases for trial on the said 4th day of March, and issue a venire facias and subpoenas for witnesses as if the said indictments had been originally found in said Court. And the Judge of the Mercer Circuit Court shall have as full and complete jurisdiction of said cases, and as plenary power to try and determine the same, as if the offences wherewith the said parties stand charged had been committed in the said county. And it shall be the duty of said Court in his discretion to make all such orders in said cases that he might according to law make where the indictments had been found in said Court. And the Judge of the said Mercer Circuit Court shall upon the finding of the jury pronounce final sentence of condemnation or acquittal or set aside the verdict or verdicts that may be rendered on said trial and grant a new trial or trials, if the justice of the case requires it, in like manner as if the offences had been committed within the jurisdiction of said Court.

That the Judge of the said Mercer Circuit Court shall be, and he is hereby authorized and empowered to recognize the witnesses on the part of the Commonwealth to appear from time to time as the said case may be continued; and shall proceed upon all recognizances in the same manner as if the same had been entered into in said Court. And in case the indictment or indictments heretofore found against said Edward C. Wilkinson, Benjamin R. Wilkinson and John Murdaugh or either of them shall be found or quashed, or the judgments thereon arrested, the said persons so accused shall not for that cause be discharged, but a Grand Jury shall be summoned and the case or cases again submitted to them to be acted upon by them as if the offence had been committed within the jurisdiction of said Court; and upon the finding of another indictment or other indictments, the said parties shall be again put upon their trial and the case or cases proceeded in in all respects as if the said offences charged had been committed within the jurisdiction of the said Court.

That the Sheriff, Clerk and Jailor shall perform all the duties pertaining to their respective offices in the progress of said trial as if the said cases had properly originated within the jurisdiction of said Court. And witnesses attending the said Mercer County Court in consequence of this change of venue, upon recognizance or subpoena shall receive the same compensation that is allowed by law to other witnesses going out of their counties upon legal process.

That no number of continuances granted by the Judge of the said Mercer Circuit Court at the instance of the Commonwealth shall operate the discharge or acquittal of the said Edward C. Wilkinson, Benjamin R. Wilkinson, John Murdaugh, or any one of them."

A copy from the original, which has passed both branches of the Legislature. January 23th, 1839.

Attest: T. J. HELM, C. H. R.,  
By JNO. C. HERNDON, Ass't.

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(APPENDIX.)—C.

CONCLUSION.

When the printing of this pamphlet was commenced, it was not anticipated that the evidence and speeches, when written out, would occupy so many pages. It has been found that they have left no room for the synopsis of the proceedings and examinations at the Examining Court, which were intended to complete this appendix. To enlarge the size of the pamphlet and increase the price, would be disadvantages not adequately counterbalanced by the synopsis alluded to, and it has therefore been deemed best to relinquish the promised account of what occurred at the Examining Court. The fulfillment of this promise, it is hoped, will not be found any important omission, when it is stated that the evidence in the Examining Court and that of the Circuit Court in Harrodsburgh, did not differ in any material point. Nine tenths of the testimony at the Examining Court, would be merely the re-echo of that given on the trial.

ADDENDA.

PUBLICATION OF THIS REPORT.

During the preparative of this Report for publication, a rumour prevailed in town that I would be subjected to prosecution for libel, by reiterating the remarks made by counsel for defence, on Mr. Redding's character. Independent of my determination to conduct this publication with strict neutrality, a determination which I trust it will be acknowledged I have adhered to—I could of course have no disposition to place myself in any situation of difficulty with respect to either party concerned in the trial; indeed every principle of fair play seemed to urge that I should avoid doing injustice to any one. I was therefore not much surprised by the following official communication from Mr. Redding, conveying as will be seen, a request, which, my own sense of propriety, no less than safety, as a publisher, told me I could not with justice, refuse. I therefore publish this communication here, having taken the liberty of leaving out such expressions in Mr. Redding's letter as I have not considered myself bound to publish.

T. E. B.

LOUISVILLE, April 10, 1839.

To the Editor of the Gazette and Reporter:

SIR: I observe in your prospectus of the Report of the Harrodsburgh trial, that you intend giving the speeches of counsel in full; if so, you will necessarily reiterate libels on my character, \* \* \* indulged in by the counsel \* \* \* for the defence. Were the circulation of your pamphlet likely to be confined to the city of Louisville, where I am known \* \* \*

I should not care; but the publication is calculated to have an extensive circulation throughout the whole Union, and the libels I complain of, may affect my character where I am not known. As a matter of right and justice, I, therefore, claim from you a space in your book, in which the enclosed certificate of my character and standing in Louisville, and the State of Kentucky in which I have spent my whole life, may be placed in contrast with the slanders \* \* \*

With much respect, I remain Sir,  
Your obedient servant,  
JOHN W. REDDING."

"We the undersigned, inhabitants of Louisville, certify that we have known Mr. Jno. W. Redding as a citizen of this State, and resident in the city of Louisville, for a number of years, and that his uniform character and standing in society has always been, and continues to this moment to be, of the very highest order for integrity, industry, veracity and unimpeachable honor.

Louisville, Ky., April 9, 1839.

- THOMAS A. M'GRATH, THOMAS KANE,
J. CHAMBERLIN, E. C. BEARD,
JAMES I. LEMON, JAMES RUDD,
WM. READ, THOMAS G. ROWLAND,
JOSEPH METCALFE, GEORGE J. ROWLAND,
C. M. THRUSTON, SILAS FIELD,
ROBERT TYLER, WM. M'CRUM,
J. GUTHRIE, SAMUEL CASSEDAY,
WM. SALE, J. REINHARD,
THOMAS JOYES, WM. BELL,
THOMAS COLEMAN, J. GORE,
THEODORE S. BELL, W. N. MERRIWETHER,
ISAAC EVERETT, A. THROCKMORTON,
WM. RIDDLE, R. S. SWEARINGEN,
J. P. BULL, COLEMAN DANIEL,
JOHN M. TALBOT, JAMES HARRISON,
E. H. LEWIS, D. HERAN,
WILLIS STEWART, J. B. BLAND,
J. C. BUCKLES, S. PENN. JR.,
JOHN I. JACOB, JAMES M'CRUM,
WM. GARVIN, W. H. POPE,
L. D. ADDISON, GEO. C. GWATHMEY,
C. N. PATTERSON, JAMES STEWART,
CHARLES QUIREY, WM. R. WANTON,
ORMSBY HITE, S. GWATHMEY,
WM. FELLOWES, W. W. WORSLEY,
GEORGE D. PRENTICE, B. G. CUTTER,
J. H. CUTTER, HUGH FERGUSON,
LEVI TYLER, L. B. CLARK,

FR. JOHNSON."

[FINIS.]

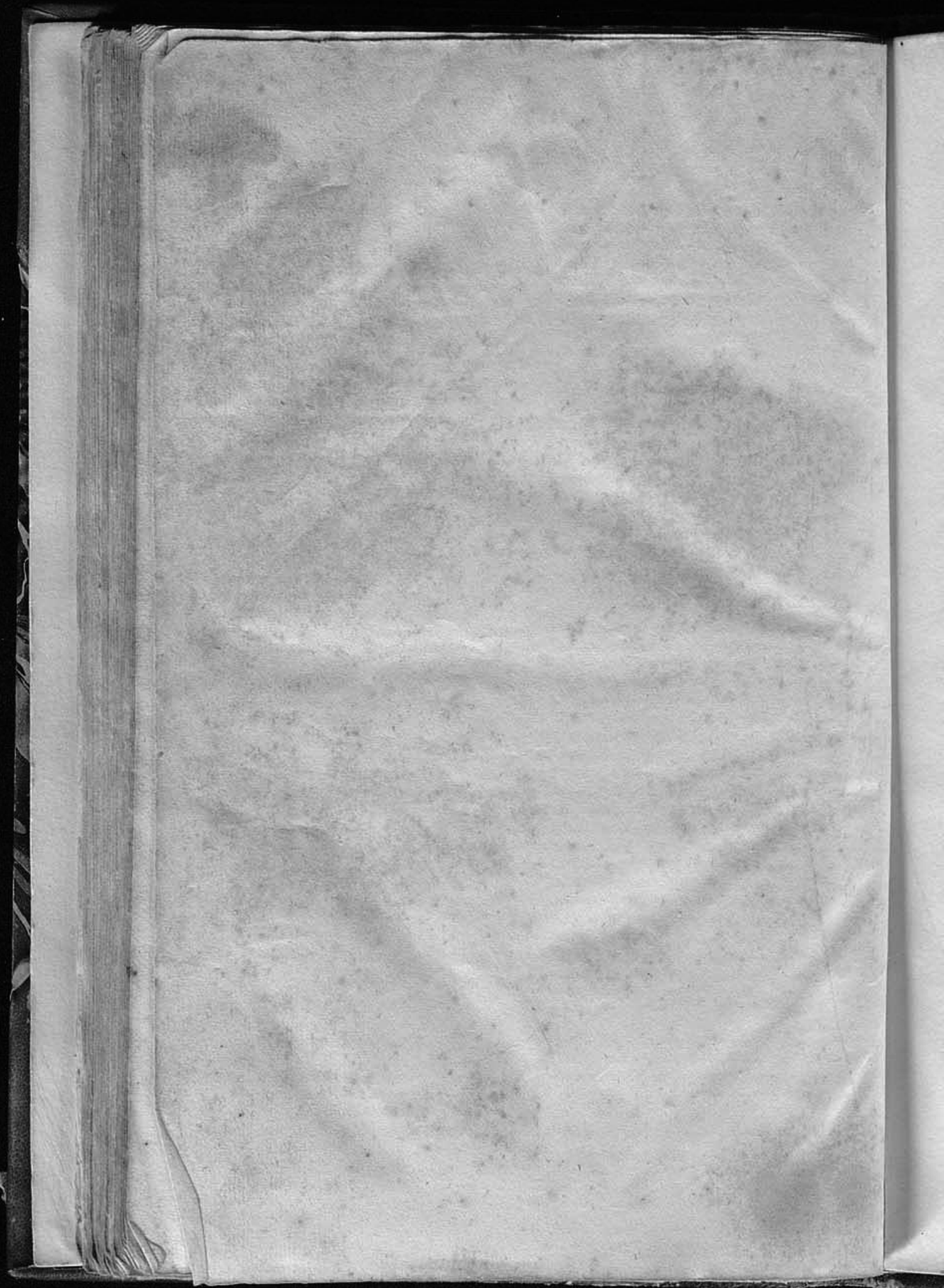
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